

Report of the Rampart Independent Review Panel



November 2000





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REPORT OF THE

RAMPART INDEPENDENT REVIEW PANEL

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A report to the Los Angeles Board of Police Commissioners
concerning the operations, policies, and procedures
of the Los Angeles Police Department
in the wake of the Rampart scandal

November 16, 2000

RAMPART INDEPENDENT REVIEW PANEL



November 16, 2000

To the Honorable Board of Police Commissioners:

The members of the Rampart Independent Review Panel are pleased to submit their report on the operations, policies, and procedures of the Los Angeles Police Department. Coming on the heels of the Rodney King beating, the civil unrest, and the O.J. Simpson case, the abuses that resulted in the Rampart scandal severely damaged the credibility of the Department in the eyes of the community it is sworn to protect and to serve. As discussed in our report, there are policies, procedures, and cultural issues that further undermine the public's trust in the Department and cause outsiders to question the Department's willingness to institute the reforms necessary to regain that trust.

We believe that the building blocks exist to reform the Department, prevent future abuses, and restore its reputation as one of the finest police departments in the world. There are many things that are right about the Department, and the members of the Panel found the vast majority of the command staff and officers with whom we spoke to be committed to improving the Department and serving the public. We also believe the impending Federal consent decree will provide a promising framework for needed reforms. But reforming the Department will require vigorous leadership and supervision at all levels of the Department and the commitment of every officer. And the consent decree cannot be the end of the process, nor can it limit the scope of reform.

Notwithstanding the quality of the individuals and the extent of their commitment, the Department cannot restore its reputation and solve its problems by itself. In particular, it needs a strong Police Commission that will lead public response to the recommendations in our report, initiate the necessary reforms, hold the Department accountable for its actions, and support the Department with the public and their elected representatives when the Department makes the right decisions and when it needs additional resources. The Department also needs improved communications with the Los Angeles County District Attorney's Office and the City Attorney's Office to identify problems and to provide independent validation of its handling of allegations of officer misconduct. Finally, the Department needs to increase the involvement of the public in the delivery of police services. It needs to treat the public as both its partner and its constituency, not as its adversary to be either confronted or avoided.

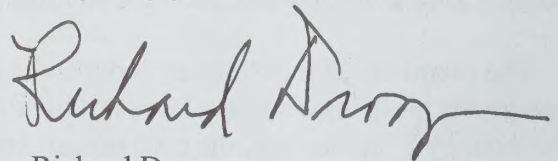
Honorable Board of Police Commissioners

November 16, 2000

Page Two

We have been honored to serve as members of the Rampart Independent Review Panel. In being given a mandate by the Police Commission to review the policies, procedures, and operations of the LAPD, we have been afforded a unique opportunity to contribute to the public debate over some of the most important issues confronting our community. We remain available to the Police Commission to respond to any questions or requests for additional information, and to participate in the Commission's review of our recommendations.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard Drooyan", with a long horizontal flourish extending to the right.

Richard Drooyan

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TABLE OF CONTENTS

	Page
INTRODUCTION	1
THE RAMPART SCANDAL	1
The Origins and Dimensions of the Rampart Scandal	3
Responses to the Rampart Scandal	5
Making Sense of the Rampart Scandal	7
Reform in the Wake of the Rampart Scandal	10
CHAPTER 1 CIVILIAN OVERSIGHT	14
Introduction and Summary	14
Findings	16
Recommendations	38
CHAPTER 2 ETHICS, CULTURE, AND COMMUNITY POLICING	48
Introduction and Summary	48
Methodology	49
Findings	50
Recommendations	71
CHAPTER 3 COMMUNITY OUTREACH AND RELATIONS	73
Introduction and Summary	73
Methodology	73
Findings	74
Recommendations	84

TABLE OF CONTENTS
[Continued]

	Page
CHAPTER 4 DISCIPLINE	88
Introduction and Summary	88
Findings	90
Recommendations	103
CHAPTER 5 OFFICER INVOLVED SHOOTINGS AND OTHER USES OF FORCE	107
Introduction and Summary	107
Methodology	109
Findings	110
Recommendations	131
CHAPTER 6 RISK MANAGEMENT	136
Introduction and Summary	136
Findings	137
Recommendations	160
CHAPTER 7 PERSONNEL	163
Introduction and Summary	163
Findings	163
Recommendations	174
CHAPTER 8 SPECIALIZED UNITS	177
Introduction and Summary	177
Methodology	178
Findings	178
Recommendations	207

TABLE OF CONTENTS

[Continued]

APPENDIX A SURVEY OF LOS ANGELES POLICE DEPARTMENT OFFICERS

APPENDIX B RISK MANAGEMENT CHRONOLOGY

INTRODUCTION

THE RAMPART SCANDAL

Los Angeles, long home to one of the country's leading police departments, is now struggling to address one of the worst police scandals in American history. Any effort to understand that scandal and to learn from it must start with the allegations at its heart – allegations of corruption and widespread police abuses that have generated almost daily headlines in Los Angeles describing the activities of a special anti-gang unit assigned to the Los Angeles Police Department's Rampart Area.

Rampart Area is located just west of downtown Los Angeles, covers 7.9 square miles, and is one of the busiest and largest operational commands within the LAPD, with more than 400 sworn and civilian personnel assigned. The Area has the highest population density in Los Angeles, with approximately 33,790 people per square mile, and the crime rate has always been among the highest in Los Angeles.

When Rampart Station opened in 1966, there were few street gangs in the area. By the mid-1980s, however, gangs and gang membership in the Rampart Area had increased alarmingly. So had narcotics trafficking and violent crimes associated with gangs. As elsewhere in Los Angeles, gangs in Rampart Area had easy access to weapons and were repeatedly implicated in a multitude of "gang-related crimes," including murders, assaults, robberies, rapes, arsons, and incidents of witness intimidation.

The Los Angeles Police Department responded with CRASH – "Community Resources Against Street Hoodlums." CRASH was created and funded by a grant in the early 1970s to combat the violent gang problem plaguing Los Angeles. There were two original CRASH units – one for Operations-South Bureau and one for Operations-Central Bureau. Both CRASH units worked gang problems in all Areas in the Bureau until they were decentralized a few years later. For years, CRASH was in the forefront of the LAPD's efforts to combat criminal activity by Los Angeles street gangs.

The Rampart CRASH unit was comprised of one to two sergeants and up to 24 CRASH officers. Prior to 1995, all Rampart officers were stationed in a single location. In 1995, the Rampart Area split into two stations due to overcrowding and poor conditions, such as inadequate lighting, few lockers, and lack of parking at the main station. Both CRASH and

Detective operations were relocated from the main Rampart Station on Temple Street to a new station at 3rd and Union.

Determined to cut crime, LAPD gave Rampart CRASH officers wide latitude aggressively to fight gangs. According to the LAPD, gang-related crimes in Rampart Area fell from 1,171 in 1992 to 464 for 1999,¹ a reduction that exceeded the city-wide decline in violent crime over the same period.

This “success” of CRASH, however, came at a great price. Rampart CRASH officers developed an independent subculture that embodied a “war on gangs” mentality where the ends justified the means, and they resisted supervision and control and ignored LAPD’s procedures and policies. As stated in the Board of Inquiry into the Rampart Corruption Incident Report (Board of Inquiry report), “Rampart CRASH had developed its own culture and operated as an entity unto itself. It routinely made up its own rules and, for all intents and purposes, was left with little or no oversight.”² As a result, Los Angeles is now faced with a police corruption scandal of historic proportions that involves allegations of not just widespread perjury, false arrest reports, and evidence planting, but also incidents of attempted murder and the beating of suspects. The misconduct of CRASH officers went undetected because the Department’s managers ignored warning signs and failed to provide the leadership, oversight, management and supervision necessary to control this specialized unit.

The consequences of the Rampart scandal cannot be overstated. The scandal has undermined the credibility of individual officers who testify in court and in their dealing with the public they serve. This lack of credibility potentially has dire consequences to effective law enforcement and the successful prosecution of crimes in Los Angeles. The public’s willingness to cooperate with the LAPD and to believe the testimony of its officers has been directly impacted by the Rampart scandal. The scandal also has exposed a deep rift between the LAPD and the Los Angeles County District Attorney’s Office (District Attorney or DA) and severely impacted the credibility of the entire criminal justice system in Los Angeles.

¹ LAPD Summary of Crimes and Arrests for the City of Los Angeles, Information Resources Division.

² Los Angeles Police Department, Board of Inquiry Into the Rampart Corruption Incident Report at 62 (March 1, 2000).

Finally, the scandal has damaged the LAPD leadership and the Los Angeles Board of Police Commissioners (Police Commission) to such an extent that there is widespread support for the agreed-upon consent decree and for the appointment of an outside federal monitor backed by the enforcement powers of the federal courts. Many officials and others simply do not believe that the Police Commission can effectively oversee the Department, or that the Department will submit voluntarily to civilian oversight. Questions also have been raised about the Department's ability to investigate uses of force by its officers; its handling of public complaints; its commitment to community policing; its failure to develop a system to track problem officers; and, above all, its willingness to institute the reforms necessary to restore its credibility in the eyes of the community it serves. Very few doubt that it will take years for the City and the Department to recover from this scandal.

The Origins and Dimensions of the Rampart Scandal

By early 1999, three separate criminal incidents, all having ties to Rampart CRASH officers, caused the LAPD to focus on and investigate Rampart CRASH. A bank robbery by LAPD Officer David Mack, the theft of narcotics from an LAPD evidence locker by Officer Rafael Perez, and allegations of excessive force against Officer Brian Hewitt and others led to the creation of the LAPD Rampart Task Force.

On November 6, 1997, Officer Mack and others robbed the Bank of America branch located at 985 Jefferson Boulevard. Using a gun, the bank robbers confronted three bank employees and escaped with \$722,000. The LAPD arrested Mack, who was indicted and ultimately convicted of federal bank robbery charges. Mack was sentenced to over 14 years, which he is currently serving in a federal prison in Illinois.³

On February 26, 1998, Rampart CRASH Officers Brian Hewitt and Daniel Lujan detained two 18th Street gang members for alleged parole violations and took them to the Rampart Substation where Hewitt allegedly choked and beat one of the men until he vomited blood because he refused to cooperate with them. Lujan and another officer, Ethan Cohan, allegedly knew about the beating, but failed to report it and allowed the man to be released

³ Two days after the bank robbery, Mack went to Las Vegas with Rampart Officer Rafael Perez and another officer. Mack and Perez at one time worked together as a narcotics buy team and Mack reportedly saved Perez's life during a shooting during an undercover narcotics buy operation.

without providing medical treatment. LAPD conducted an investigation and thereafter brought administrative charges against the three officers. Officers Hewitt and Cohan were found guilty at a Board of Rights hearing and fired by the Department. Officer Lujan was cleared at a second Board hearing.⁴

On March 27, 1998, LAPD Property Division discovered that three kilograms of cocaine had been checked out for court and were missing. LAPD initiated an investigation and determined that the court case for which the cocaine had been checked out had already been adjudicated. The Department then conducted an extensive audit of both the Property and Scientific Investigation Divisions, and suspicion soon focused upon Officer Rafael Perez. A handwriting expert concluded that there was a “high probability” that Perez had signed the request to check out the missing cocaine and there were a number of suspicious phone calls made by Perez on the day the missing cocaine was checked out.

On August 17, 1998, the District Attorney filed a complaint for one count of Possession of Cocaine for Sale, one count of Grand Theft, and one count of Forgery against Perez, who was arrested on August 25, 1998. Perez’s first trial began on December 7, 1998, and a mistrial was declared after the jury deadlocked eight to four in favor of a guilty verdict. Thereafter LAPD investigators uncovered new evidence against Perez that resulted in additional charges being filed against him for thefts of additional cocaine from LAPD’s Property Division.

Immediately before the scheduled start of the retrial on September 8, 1999, Perez pled guilty to eight felony counts, including four counts of Grand Theft for stealing the cocaine, and four counts of Possessing Cocaine for Sale. Perez agreed to cooperate in the investigation in exchange for a sentence of five years in prison.⁵ On February 25, 2000, Perez was sentenced to

⁴ LAPD has sought on two occasions to obtain a criminal filing against Hewitt. The District Attorney’s Special Investigations Division has rejected the filings due to insufficient evidence. The District Attorney’s Office is now considering the case for a third time. LAPD also sought a criminal filing against Hewitt from the California Attorney General, which was also rejected.

⁵ Under the terms of the agreement Perez could be sentenced to the maximum of 12 years in prison if he lies to investigators. Initially, Perez was not given immunity for any crimes involving unlawful police shootings. The District Attorney then agreed to grant immunity for his testimony regarding the alleged unlawful police shooting of Javier Francisco Ovando (discussed below). To date, Perez has not implicated himself in any shootings other than the Ovando shooting.

five years in prison based on the representation of the District Attorney's Office that he had complied with the terms and conditions of the plea agreement.

Perez initially implicated 28 present and former members of the Rampart CRASH Unit in criminal activities and serious acts of misconduct. According to Perez, several of the officers he identified seemed to have the attitude that "they were LAPD and could do whatever they wished." According to Perez, this included attempted murder, planting evidence, false imprisonment, beatings, theft of money and drugs, unauthorized searches, obstruction of justice, false police reports and perjury.

Among the allegations made by Perez are that he and other officers lied in arrest reports about observing defendants engage in narcotics transactions, about defendants consenting to searches, and about the probable cause for arrests. According to Perez, they also shot and killed or wounded unarmed suspects⁶ and innocent bystanders, planted guns on suspects after shooting them, fabricated evidence,⁷ framed defendants,⁸ and delayed calling an ambulance to give them time to fabricate a story to justify a shooting.

Responses to the Rampart Scandal

The immediate impact of the Rampart scandal has been staggering. To date, the District Attorney has filed criminal charges against six former Rampart CRASH officers, and criminal investigations by the District Attorney's Office, the United States Attorney's Office, the LAPD and the Federal Bureau of Investigation are on-going.

Based largely on Perez's revelations, the District Attorney "lost confidence" in the evidence supporting the convictions of more than 100 people, and either initiated or joined in

⁶ In *People v. Durden*, Officer Nino Durden has been charged with attempted murder, assault with a deadly weapon, filing a false police report, and obstruction of justice in connection with the shooting of Javier Ovando, who was sentenced to over 23 years in prison based on false testimony by Perez and others. Durden is also accused of armed robbery in a separate incident, and perjury in a third incident for his role in the October 23, 1996, arrest of Miguel Hernandez, who was allegedly framed on a weapons offense.

⁷ In *People v. Ortiz*, Michael Buchanan, and Sergeants Edward Ortiz and Brian Liddy are charged with perjury and conspiracy stemming from the 1996 arrests of Raul Munoz and Caesar Natividad for assaulting officers by striking two officers with their pickup truck as they sped through an alley.

⁸ In *People v. Ortiz*, Sergeants Edward Ortiz and Brian Liddy and Officer Paul Harper are charged with framing Allan Lobos.

writs of habeas corpus filed by those defendants to dismiss their cases.⁹ Most of the cases dismissed by the District Attorney's Office rested on Perez's statement that a defendant had been framed. In many of the cases, the defendant was located and interviewed by the Rampart Task Force and confirmed Perez's statements. Without apparent knowledge of Perez's version of events, they have given accounts consistent with Perez's statements. To date, however, no police officer has directly corroborated Perez's allegations of serious misconduct.

No sworn, tenured member of LAPD can be suspended without pay for more than twenty-two days or be fired or demoted without a Board of Rights hearing. In a Board of Rights, the burden on the LAPD is to prove each charge by a preponderance of the evidence. Therefore, an officer may be found guilty of administrative misconduct more readily than criminal misconduct, which requires proof beyond a reasonable doubt. Further, the decision need not be unanimous and only requires a majority vote of the Board. If the officer is found guilty, the Board decides an appropriate punishment ranging from an official reprimand, suspension or demotion to termination, subject to a reduction by the Chief of Police.

To date, there have been 76 Boards of Rights hearings for 37 officers based upon Perez's allegations. About half resulted in acquittals because Perez was either insufficiently corroborated or impeached by independent facts. For example, an officer was found not guilty of misconduct in a gun possession case after it was disclosed that Perez testified incorrectly about the identity of a key informant in the case. Three officers have been fired as a result of the Rampart scandal, six other officers have resigned rather than face a Board of Rights hearing, and 25 have been relieved of duty pending a Board of Rights.

As of the time of this report, according to the City Attorney's Office, there are approximately 95 cases and 81 claims pending in which Rampart misconduct is alleged, and these numbers are expected to grow. In order to effectively handle these Rampart-related cases, the City Attorney's Office set up a special Rampart Team. The team is comprised of seven attorneys who interact with the Rampart Task Force, receiving briefings and assistance in

⁹ The degree of corroboration for dismissal of cases by the District Attorney via a writ of habeas corpus is low. Thus, if the District Attorney has lost confidence in the evidence supporting the conviction, he moves to dismiss the case. Perez's word alone, or a defendant's word alone, if believed by the District Attorney, would be sufficient. The Department identified 99 cases it believed to be tainted based on Perez's testimony and referred those cases to the District Attorney for dismissal.

gathering discovery. The City Attorney's Office reports that the City has paid so far approximately \$880,000 in settlements in cases relating to Perez's allegations, but no civil jury has yet to return a verdict based upon Perez's allegations.

The Los Angeles Police Department responded to the Rampart scandal in various ways, including the formation of a Task Force in May 1998 to investigate possible criminal and administrative violations. By January 2000, the Task Force had 21 full-time personnel. In conjunction with the LAPD's Internal Affairs Group, the Task Force is continuing its investigation. The Task Force is investigating 50 to 100 "priority" case files at this time.

On September 21, 1999, Chief of Police Bernard C. Parks convened a Board of Inquiry (BOI) to look into the Rampart scandal independent of the LAPD Task Force and the Internal Affairs Group. On March 1, 2000, the BOI produced an extensive Public Report that listed 108 conclusions and recommendations for consideration by the Board of Police Commissioners.

Because the Rampart corruption allegations centered on the CRASH Unit, the LAPD reviewed the structure and effectiveness of these special anti-gang CRASH units. On March 6, 2000, in Special Order No. 6, Chief Parks ordered the CRASH units disbanded and created Special Enforcement Units (SEU) in each Area.¹⁰

Making Sense of the Rampart Scandal

Specialized police units are designed to support patrol functions and to focus on specific crime problems that require special law enforcement efforts such as narcotics, gangs and vice. Officers assigned to these specialized units receive additional training focused on their area of specialization. They tend to develop a greater sense of camaraderie within each unit as a natural result of their specialized responsibilities, training, and close working relationships. On the negative side, the officers in these specialized units, by virtue of their insularity, are subject to the risk, if they are not strongly supervised, of becoming overly zealous, and losing focus on their sworn duty to serve as impartial enforcers of the criminal laws.

In the early 1990's, Rampart CRASH was a prized assignment for the Department's most promising young officers. For example, one of the officers implicated by Perez had received 63 commendations and community letters of appreciation for outstanding arrests, outstanding field

¹⁰ See Chapter 8, "Specialized Units," which discusses the additional controls in the Special Enforcement Units to avoid the problems in CRASH that led to the corruption scandal.

tactics, gang expertise, aggressive police street work, dedication to duty, commitment, teamwork, initiative and professionalism. Rampart CRASH has been described as a tight, hard working unit with perhaps too much work and too little support from its chain of command. The BOI recounts that many of the line officers were disrespectful, resistant and unreceptive to suggestions from officers, management and training personnel outside Rampart Area. In place of appropriate respect for the police department they served, Rampart CRASH officers developed an enhanced loyalty to each other and to the unit's way of doing things.

This disrespect for the command structure is partially attributable to the command's lack of attention to the practices and procedures of Rampart CRASH. Supervisors effectively deferred to CRASH to monitor itself. This lack of control over Rampart CRASH sent a clear message to its officers that they were a police force unto themselves, governed only by their own rules, and free to take the law into their own hands if that would further the mission of CRASH. At Rampart, the failure to impose adequate supervision and controls over CRASH officers resulted in a heightened sense of insularity which reinforced and perpetuated an "us versus them" mentality among Rampart CRASH officers.

This set the stage for the siege mentality that appears to have taken hold among Rampart CRASH officers as they battled gang activity in Los Angeles. These officers, who were assigned the task of responding to the burgeoning gang problem plaguing the area, succumbed to the temptation to win the war on crime at any cost, to sacrifice civil liberties in order to reduce the danger posed by street gangs, and to imprison suspects likely to have committed unknown and unprovable crimes rather than allow them to remain at large where they might have the opportunity to commit such crimes in the future. These systematic abuses of authority at Rampart, and LAPD's failure to recognize and respond to "the end justifies the means" mentality that gave rise to it, underscores the need for routine transfers among specially assigned officers, as well as a careful monitoring of the attitudes and tactics of the officers assigned to such specialized units.

Responsibility for the Rampart misconduct doesn't lie with a single individual, but with a relatively small group of renegade police officers whose misdeeds went unchecked as a result of a systematic failure of supervision and leadership throughout the chain of command. Ironically, it was the very effectiveness of Rampart CRASH that planted the seeds for its eventual corruption. Focused on arrest statistics and the inroads made by CRASH into the Rampart

crime problem, commanding officers and supervisors neglected their oversight duties, and the LAPD simply stopped policing its own. Thus, they failed to detect:

- A high number of arrest reports containing similar or identical language describing probable cause for the arrest.
- A high number of CRASH officers reporting that suspects were discarding weapons or drugs in plain view, just a few feet away from them.
- The use of informants in violation of LAPD policy.
- CRASH officers approving their own bookings and arrest reports.
- The inclusion of less than 50% of arrests in the Rampart CRASH arrest book, a document reviewed by the unit supervisor for auditing purposes.

In interviews of LAPD officers, members of the Panel were told that many of the sergeants at Rampart CRASH lacked sufficient experience prior to their arrival at Rampart and often did not stay in the assignment long enough to receive appropriate training. Thus, the sergeants failed to adequately supervise, question and audit officers who produced outstanding statistics. Beyond the sergeants, however, lieutenants and captains failed to detect patterns of misconduct, and staff officers ignored warning signs and failed to insist on the necessary oversight.

Rampart is a densely populated, gang-infested, high-crime area. Rampart CRASH was exceedingly productive as measured by the number of felony arrests, drug and weapon seizures, prosecutions, convictions, and resulting reduced crime statistics. Rampart lieutenants and captains were keenly aware of these impressive statistics. At the same time, they failed to conduct frequent unannounced field inspections, or to spend sufficient time in the field monitoring CRASH officers. Instead, there was an over-emphasis on field productivity in the form of arrests and contraband seizures. Coupled with a failure throughout the chain of command to perform essential supervision, oversight, and meaningful audits/verifications necessary to ensure compliance with existing rules, this led to an atmosphere in which the Rampart misconduct could occur and ultimately result in the systematic violation of the public's rights.

Rampart CRASH was not audited for a period of two years between 1995 and 1997. The Operations-Central Bureau lieutenant who was responsible for auditing Rampart CRASH made it known at the time that Rampart detectives refused to provide him with statistics and sergeant's

log books necessary to complete an audit. When the detectives' refusal was brought to the attention of a Rampart lieutenant, nothing was done. Thereafter, the Central Bureau lieutenant reported this failure to cooperate to the deputy chief in charge of the Central Bureau. Yet again the complaint fell on deaf ears. In the words of one interviewee, "[t]he Department simply didn't have the will to manage properly."

It does not appear that command and staff officers have accepted any responsibility for the Rampart scandal. A captain who has since been promoted to commander stated that it would be unfair to hold commanding officers responsible for the stations because they are simply too busy. No one at the Bureau apparently was concerned that Rampart CRASH had not been audited for two years, even though, as one high-ranking official noted, it was generally known throughout the Department that Rampart CRASH was difficult to supervise and had developed its own culture and aggressive approach to the gang problem.

The Rampart scandal thus raises broad questions about the LAPD. The failure of field officers to follow standard procedures, the failure of sergeants to audit field officers who produced outstanding statistics, the failure of lieutenants and captains to ensure that proper auditing procedures were followed, and the failure of staff officers to insist upon adequate auditing procedures collectively resulted in an absence of fundamental management controls that should have revealed evidence of systematic abuses of power by Rampart CRASH officers. To prevent these failures from recurring, it is imperative that they be addressed energetically and imaginatively, by both the Department and by the City as a whole.

Reform in the Wake of the Rampart Scandal

The most serious allegations of police misconduct and corruption in the Rampart scandal are based primarily on allegations made by Officer Perez. His statements must necessarily be viewed with caution. He has admitted having repeatedly committed perjury and having prepared false police reports in order to obtain convictions against gang members in drug and weapons cases, and to cover up his own thefts. Further, Perez had a strong incentive to implicate other officers to satisfy the conditions of his plea agreement. By pleading guilty and cooperating against other officers, Perez reduced his prison sentence from twelve years to five years.

Ultimately, it may be impossible to determine whether Rafael Perez is telling the truth in all respects and the nature and extent of police misconduct on the part of Rampart CRASH officers. Some of the questions about the specific crimes allegedly committed by LAPD officers

will be dealt with under the microscope of civil lawsuits and criminal prosecutions in the future. What Perez and Rampart did was open the eyes of the LAPD, public officials, and the community to fundamental issues about the Los Angeles Police Department. How was it that LAPD's Officer-Involved Shooting (OIS) teams failed to find out that Rampart CRASH officers had shot unarmed suspects and then planted guns to justify the shootings? Why did no officers come forward to report misconduct by other officers, including the misconduct that Perez has now admitted that he committed? How did the Department's risk management systems fail, in the words of the Board of Inquiry Report, to respond to "clearly identifiable patterns?" What kinds of controls are in place to ensure that there is not a repeat of Rampart in other specialized units in the Department? Was there something about the LAPD's ethics and culture or the recruitment and training of its officers that allowed this scandal to occur?

The Board of Inquiry issued a 355 page report with 108 conclusions and recommendations that reflect the considered judgment of some of the Department's most respected officers. The report, however, focused on operational matters without looking at the broader context in which the Department's policies, procedures, and practices existed, and it did not seek the input of the community in either the fact finding or the review of the facts.

Because the Rampart revelations shook public confidence in the Department, the Board of Police Commissioners saw the need for a broader inquiry that would not only look at the Department's policies, procedures and operations, but would consider structural issues and obtain input from inside and outside the Department. They thus sought an inquiry that would not investigate Perez's specific allegations, but would examine the broader issues raised by his allegations. The Police Commission authorized the Inspector General and Executive Director to form an outside panel that would be independent of the Commission to examine all of these issues, including the role of the Commission itself. The Rampart Independent Review Panel (Panel) was then formed with the understanding that it would be completely independent of the Commission with respect to the nature and scope of its investigation, that the Commission would not attempt to place any limits on the Panel's review, and that the Panel would release its report to the public at the same time that it delivered the report to the Commission.

The Panel consists of over 190 community leaders, attorneys, investigators, accountants, educators, retired judges, retired law enforcement officers, business executives, and others. The

vast majority of the members of the Panel have volunteered their services without any compensation.

The members of the Panel formed eight working groups to review the policies, procedures and operations of the LAPD.¹¹ Each of the working groups had a mandate to conduct an independent investigation and to solicit input from the Department, current and retired officers, experts, and, in particular, the communities most directly affected by the scandal and the consequences of the scandal.

Attorneys on the Panel and their staff contributed well over 7500 hours of work. Skilled investigators spent more than 5000 hours on the project. The Panel conducted hundreds of interviews of police officers, community leaders, concerned citizens, government officials, and law enforcement experts. We cannot list all of the people who spoke to us, because many of them requested anonymity. But they include the following:

- all current members of the Police Commission and eight former members
- the current Chief of Police and two former Chiefs of Police
- five current deputy chiefs and ten commanders of the LAPD
- more than 190 captains, lieutenants, sergeants, detectives, and police officers of the LAPD
- the Executive Director, the first Inspector General, and the current Inspector General of the Police Commission
- a wide range of civilian employees of the LAPD
- representatives from the Mayor's Office
- six members of the Los Angeles City Council
- the City Attorney and seven senior members of his staff
- members of the Board of Civil Service Commissioners and the City Personnel Department
- community leaders, members of the clergy, and representatives of civil rights organizations

¹¹ The Panel's mandate was to look at the LAPD, not broader issues relating to the criminal justice system. Accordingly, the Panel did not look at the operations of other agencies,

- members of the civil rights and criminal defense bars
- current and former members of the Los Angeles and Orange County Sheriff's Departments, the Los Angeles County District Attorney's Office, the U.S. Department of Justice, the Federal Bureau of Investigation, the Immigration and Naturalization Service, and the Bureau of Alcohol, Tobacco and Firearms
- representatives of police departments in New York, Santa Ana, South Pasadena, Ft. Worth, Boston, Chicago, and San Diego
- representatives of civilian agencies overseeing law enforcement in San Francisco, San Jose, Berkeley, Sacramento, Boise, and Denver
- nationally-recognized experts in the areas of police reform and oversight

The Board of Inquiry Report is a first step towards reform of the LAPD. In response to the Rampart scandal, the Department has demonstrated a willingness to make changes in its policies and procedures. But those changes have been internally generated. As set forth in this report, however, much remains to be done to reform the Los Angeles Police Department and to restore its credibility in the eyes of the public. The impending federal consent decree cannot be the end of the process, nor can it limit the scope of reform. Whether our elected and appointed officials have the will to take the necessary steps, or will simply defer to an outside monitor or to the Department itself remains to be seen. Whether the Department will be receptive to changes that are mandated or suggested by outsiders also remains to be seen.

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such as the Los Angeles County District Attorney's Office and the City Attorney's Office, except insofar as the policies, procedures and operations of the LAPD impacted these agencies.

CHAPTER 1

CIVILIAN OVERSIGHT

Introduction and Summary

In carrying out their important and difficult mission to protect and serve the people of Los Angeles, sworn officers of the LAPD are authorized to intrude forcefully on the lives, property and persons of civilians. Residents of the City cede this power to a professional police force to gain a safer community and trust the police to use its power responsibly and lawfully.

The role of a civilian oversight body is to oversee the bargain between the community and its police and to “supervise,” “control,” “regulate” and “manage” the police. It can be seen as a bridge between the community and the police. It relays the concerns and wishes of the community to the police, holds the police accountable to the community it serves, and certifies to the community how the police are performing, thus lending credibility to the police department. It must be able to mediate between both points of view, without becoming the permanent captive or adversary of either side.

The LAPD is governed by a civilian oversight model that dates back to the 1925 City Charter. The fundamental elements of that model have endured to this day and survive in the new City Charter that went into effect on July 1, 2000. This longstanding model vests authority over the Department in a five-member Board of Police Commissioners appointed by the Mayor.

Historically, the Police Commission has not exercised the degree of control over the Department that one would expect given the Charter’s broad grant of power to the Commission. In 1965, in the aftermath of the Watts Riots, the Governor’s Commission on the Los Angeles Riots (McCone Commission) stated:

. . . the Board of Police Commissioners is not visibly exercising the authority over the Department vested in it by the City Charter.¹²

Over 25 years later, in the aftermath of the Rodney King beating, the Independent Commission on the Los Angeles Police Department (Christopher Commission), stated:

Although the City Charter assigns the Police Commission ultimate control over Department policies, its authority over the Department and the Chief of Police is

¹² Report of the Governor’s Commission on the Los Angeles Riots, at 30 (December 2, 1965) (hereinafter McCone Comm. Report).

illusory. Structural and operational constraints greatly weaken the Police Commission's power to hold the Chief accountable and therefore its ability to perform its management responsibilities, including effective oversight.¹³

The Christopher Commission recommended that the existing model of a five-member, part-time citizen Commission be retained, but proposed a number of reforms aimed at increasing the Commission's ability to perform its Charter-mandated function and to remedy the imbalance of power that had developed between the Commission and the Chief of Police. Some of these measures were implemented, notably the exemption of the Chief from existing civil service protections and restriction to two five-year terms as Chief, the creation of the position of Executive Director of the Police Commission and the creation of the Inspector General position.

Nonetheless, civilian oversight of the Department remains weak. Several factors undermine the Police Commission's ability to exercise strong civilian oversight of the Department. Commissioners all serve part-time and are unable to bring their full attention to bear on the work of the Commission. Further, the Commission has no authority over discipline in cases that impact the community; it continues to be distracted by functions that have nothing to do with managing the Department, and it continues to be understaffed. Finally, the authority of the Commission has repeatedly been undermined by the Mayor's Office.

In addition, the Inspector General's Office has not been able to perform its function as the "eyes and ears" of the Police Commission. Its ability to monitor the Department and gather information has been hindered by inadequate staffing, lack of cooperation by the Department in responding to requests for information, lack of coordination with the Police Commission, and the inability to provide confidentiality to whistleblowers and informants.

This lack of visible and effective civilian oversight worsens the Department's own credibility problem in the eyes of the community. Whether or not the problems in the Department leading to the Rampart scandal could have or should have been identified long ago through proper oversight, there is a widespread belief that the Commission's oversight has been ineffective and resisted by the Department. The Commission's continuing weakness means that it cannot lend credibility to the Department by validating its good decisions while also uncovering its mistakes and seeing to their correction. Nor can the Commission function as an

¹³ Report of the Independent Commission on the Los Angeles Police Department, at xxi (July 9, 1991) (hereinafter Christopher Comm. Report).

effective advocate for the Department by explaining to the Mayor, the City Council and the community why the Department has done a good job or needs additional resources.

Findings

1. Weak civilian oversight continues to hamper effective and ethical policing in Los Angeles.

The City Charter designates the Police Commission as the “head” of the Police Department,¹⁴ with power to “supervise, control, regulate and manage the department” and to “make and enforce” all rules and regulations necessary for the exercise of its power.¹⁵ The Chief of Police, in turn, is empowered to “administer the affairs of the department.”¹⁶ The Chief’s power is subject to the Police Commission’s power to “issue instructions to the Chief of Police” except on matters of discipline that are reserved to the Chief.¹⁷ The Police Commission can remove the Chief at any time, but that power is subject to override by the City Council and the Mayor.¹⁸

The five members of the Police Commission are appointed by the Mayor, subject to approval of the Council.¹⁹ The Mayor also has the power to remove Commissioners at any time, subject to the Commissioner’s right of appeal to the Council, which may reinstate the Commissioner by a 2/3 vote.²⁰ Commissioners serve five-year staggered terms, up to a

¹⁴ Charter of the City of Los Angeles, § 500 (hereinafter Charter).

¹⁵ Charter, § 506(a)-(b). Commission actions are subject to veto by the City Council, which must then remand the matter to the Commission for further action. Charter, § 245. The City Council had more power under the previous Charter: it could review all actions of the Commission and substitute its own action, under the procedures set forth in Section 32.3.

¹⁶ Charter, § 574(b) (1925 Charter as amended in 1995, § 79(a)) (hereinafter former).

¹⁷ Charter, § 571(b)(1) (former § 205(d)).

¹⁸ Charter, § 575(d). Specifically, if the Commission acts to remove a Chief, the Council may assert jurisdiction over the matter and either remove or restore the Chief to office. If the Council does not assert jurisdiction over the matter, the Mayor may reverse the removal.

¹⁹ Charter, § 502(a).

²⁰ Charter, § 502(d). Under the previous Charter, the Mayor’s removal power was subject to approval by the Council. (Former § 73).

maximum of two five-year terms, plus up to two years of an unexpired term.²¹ The Police Commission elects a President and Vice President from among its own members.²²

Police Commissioners have historically served part-time and with minimal compensation. Although nothing in the Charter mandates this, it has been the custom.²³ As a result of the reforms urged by the Christopher Commission, the Police Commission now has a full-time Executive Director and an Inspector General, both of whom are appointed and subject to removal by the Police Commission. The Executive Director is the chief administrative officer of the Police Commission and supervises most of the Commission's staff.²⁴ The Inspector General's primary function is to "audit, investigate, and oversee the Police Department's handling of complaints of misconduct by police officers and civilian employees" and perform such other duties as may be assigned by the Commission.²⁵

The oversight responsibility of the Police Commission has been substantial. The Commission "sets overall policy" for the Department,²⁶ and reviews and approves the Department's annual budget.²⁷ The Department's adopted budget for the 1999-2000 fiscal year was \$891,679,649 – by far the largest budget for any unit of City government.²⁸ The Commission also evaluates the Chief of Police annually and sets or adjusts the Chief's compensation within guidelines established by the Council.²⁹ Through the Office of Inspector

²¹ Charter § 501(c) and § 571. The custom has been for each Mayor to appoint an entirely new Commission, so turnover on the Commission has been partly a function of the four-year Mayoral election cycle.

²² Charter, § 503(a). A Commissioner is limited to 2 consecutive one-year terms as President of the Commission. Charter, § 571.

²³ The Council has the power to set the compensation of Commissioners by ordinance. Charter, § 219 and § 200.

²⁴ Charter, § 571(b)(3) and § 572(a).

²⁵ Charter, § 573(a).

²⁶ http://www.lapdonline.org/organization/bpc/board_main.htm and http://www.lapdonline.org/organization/bpc/function/board_functions_3.htm, visited August 24, 2000.

²⁷ Charter, § 574(e).

²⁸ Summary of City budget at <http://www.lacity.org/oars/bud9900.pdf>, visited August 24, 2000.

²⁹ Charter § 571(b)(2).

General, the Commission oversees the processing of citizen complaints and the disciplinary system. The Commission reviews officer-involved shootings (OIS) and other serious use-of-force (UOF) incidents, and makes a determination as to whether these incidents were in-policy or out-of-policy. The Commission has responsibility for labor and employment law matters affecting the Department, including employee grievances and complaints of discrimination and sexual harassment. It also monitors the Department's progress in achieving hiring and promotional goals in compliance with consent decrees as well as voluntary employment goals. Other matters addressed by the Commission include monitoring of litigation involving the Department; periodic audits of the Department's Anti-Terrorist Division in compliance with a 1984 consent decree, and oversight of community policing-related activities.

In addition, the Police Commission is responsible for administering a number of City permits that have a public safety component. These include over 50 types of business permits, permits for home and business alarm systems and permits for charitable organizations to solicit funds. While much of this work is delegated to staff, parade permits and variances are still heard by the Commission and one Commissioner is assigned specifically to parade permits.

In 1991, the Christopher Commission recommended that Police Commissioners' compensation "should be increased substantially" and that the Commission's permit function should be reassigned to another body.³⁰ These things have not happened. The Christopher Commission also recommended that the Commission's professional staff be increased.³¹ While the Police Commission's staff has increased since 1991, it still is not adequate.

The current state of affairs is aptly described by the following comments of Warren Christopher as recently quoted in the Los Angeles Times:

Over the past 10 years, the Independent Commission's recommendations for molding the LAPD into an organization with its professional and civilian arms in balance have been translated, principally by charter amendments, into something like an architectural rendering. What has lagged behind is the implementation of the architectural plans. We have yet to see the concrete steps – such as full and adequate staffing for the Police Commission and Inspector General, a computer

³⁰ Christopher Comm. Report, at 208.

³¹ Id. at 208 (stating that the Commission "plainly needs additional resources to carry out its oversight and policy-making functions effectively.")

system to track officer conduct and regular psychological testing of personnel—that are critical to completing the process.³²

In particular, our interviews have also made clear that the inherent information advantage enjoyed by the Department continues to hamper the Commission. The Department is the custodian of most significant information about the Department, information that is voluminous, diverse, and often not easy to synthesize and understand. The Department continues to resist providing information to the Commission, most prominently by failing to cooperate with, and indeed complaining about, requests by the Commission's Inspector General. While we doubt the Department would openly defy a direct order by the Commission to provide specific items, more passive forms of resistance have the practical effect of rationing the information provided to the Commission. Plainly, the Commission's ability to ask the right questions, spot important issues, set priorities and address problems depends on the timely receipt of the right information from the Department.

This lack of visible and effective civilian oversight worsens the Department's own credibility problem in the eyes of the community. In interviews with public officials, community leaders, and present and former Commissioners, all agreed that the perception of a Commission ineffective in identifying and solving problems lingers even after substantial structural reforms have been made. There is a widespread belief that the Police Commission did not do enough to prevent or fix the problems that gave rise to the Rampart scandal. The Commission's continuing weakness means that it cannot lend credibility to the Department by validating its good decisions while also uncovering its mistakes and seeing to their correction. Nor can the Commission function as an effective advocate for the Department by explaining to the Mayor, the City Council and the community why the Department has done a good job or needs additional resources.

2. The Commission has suffered from lack of leadership and focus owing to the part-time status of the Commissioners.

There is a widespread perception that the Police Commission has failed to exercise its power, is relatively weak and ineffective. The most often cited reason is because the part-time commissioners do not have enough time to do their jobs well and that they are overwhelmed by

³² Jim Newton, *Council Will Be Asked To Back Major Police Reforms*, Los Angeles

the resources, institutional knowledge and complexity of the Department.³³ Although the Police Commission has broad powers to oversee the operations of the Department, many present and former commissioners noted that in the absence of any full time commissioners, it is difficult for the Commission to set agendas, focus on important issues, and follow through to ensure that these issues are appropriately addressed by the Commission and the Department. The Chief of Police also agrees that the Commission has failed to set an agenda of the important issues for the Department.

The challenges facing the Department are numerous and complex. It employs approximately 13,000 people and serves a City of some 3.4 million. The issues to be confronted include: recruiting, training and retention of qualified officers, compliance with hiring consent decrees, the challenges of policing a large and diverse population spread over 446 square miles, developing and enforcing effective policies on use of force, handling of public complaints and internal investigations, and restoring the credibility of the Department in the wake of such incidents as the Rodney King beating, the Margaret Mitchell shooting and the Rampart scandal. The Chief of Police and the command staff are, of course, charged with addressing these challenges on a day-to-day basis. But the Police Commission is charged with the ultimate responsibility for overseeing the Department and its relationship to the community.

The past and present Commissioners we have talked to have all displayed considerable dedication to their work on the Police Commission, but most have also frankly acknowledged the limitations imposed by their part-time status. The City cannot realistically expect five part-time commissioners to do an effective job of understanding what is happening inside LAPD in all of the various areas outlined above, identifying priorities among these issues, setting policies and agendas, and following through on them. There are large amounts of information to be gathered and filtered, relationships to be nurtured, and delicate judgments to be made. These tasks require more than intermittent attention. Even when Commissioners go above and beyond the part-time commitment and devote more hours to the Police Commission (as many of them have), they

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Times, August 15, 2000, at A1 (Valley Edition).

³³ This sentiment was expressed during interviews with this Independent Review Panel by a number of people who have observed or been involved with the Commission's oversight of the LAPD over the years and in a variety of local publications.

have done so while holding down other jobs and meeting other responsibilities. Even the most talented and competent individuals must inevitably be less than fully effective when their time and attention are divided in this manner.

The Christopher Commission noted that a number of witnesses suggested that the Police Commission “has too much responsibility to function effectively with part-time members” and that either all five members should serve full time or at least the President should serve full time.³⁴ In the end, however, the Christopher Commission was persuaded that having a full-time commission would create other problems and might diminish the pool of talented persons available to serve. Accordingly, it concluded that all five Police Commissioners should remain part-time “with the understanding that a substantial time commitment is required.”³⁵ It also concluded that the Police Commission should be given more resources, including the full-time Executive Director and the Inspector General. These positions have been filled and the Police Commission’s staff has been increased to some degree. But the part-time Commissioners are still stretched too thin. That all members of the Police Commission serve part-time means that not one Commissioner makes it his or her full-time priority to carry out the Commission’s mission.

What is now clear, however, is that almost ten years after the Christopher Commission Report, the Police Commission is viewed by public officials, the press, and the community as ineffective in its oversight, a job most agree is too difficult to do on a part-time basis. Therefore, even with the additional tools provided by recent Charter reform, the job is too large to be done without any full-time Commissioners. It must be emphasized, however, even full-time Commissioners will not be effective if they are unwilling to exercise the Charter-mandated power to “supervise, control, regulate, and manage the department.”

3. The Police Commission’s lack of power over discipline undermines its authority.

Another impediment to the Police Commission’s effectively overseeing the Department is that it lacks authority over an area important for community credibility and Department support – discipline of Department employees. The City Charter imposes one significant limitation on the Commission’s power over the Department: Commissioners have no say over

³⁴ Christopher Comm. Report, at 209.

³⁵ *Id.*

discipline of sworn officers [and non-sworn personnel].³⁶ This authority is reserved for the Chief of Police, subject to the Board of Rights procedures set forth in Charter section 1070.³⁷

Recognizing that the current system of discipline was not working and a “major system overhaul” was required,³⁸ the Christopher Commission concluded that:

“the best approach is to place oversight of the disciplinary process in the Police Commission, with that Commission being given adequate staffing to permit it to accomplish its mission effectively.”³⁹

The Christopher Commission further recommended creating the Office of Inspector General to report to the Commission and to audit and oversee the complaint and disciplinary process.⁴⁰ This was done in 1995.⁴¹

Although the Christopher Commission made clear that oversight of the disciplinary process rested with the Police Commission,⁴² the Police Chief has cited his own authority over discipline as reason for rebuffing attempts by the Police Commission to involve itself in disciplinary policy.

For example, among the criticisms of the Department’s disciplinary system is that there is no formal mechanism for determining an appropriate punishment for misconduct. This has resulted in officers believing that often they are too severely punished and that a double standard exists in rank. However, the Police Commission’s short foray into formulating a discipline

³⁶ Charter, § 571(b)(1).

³⁷ Charter, § 574(c) and § 1070.

³⁸ Christopher Comm. Report, at 171.

³⁹ *Id.*

⁴⁰ The passage of Charter Amendment 3 in 1995 added Sections 205(f) and 206(d) to the then-existing Charter. Section 573 of the new Charter carries those provisions forward with some modification.

⁴¹ The Christopher Commission believed that oversight of the disciplinary process should be placed in the Police Commission, and that while the Chief should be “primarily responsible for imposing discipline in individual cases,” the Commission should “set guidelines as a matter of policy and hold the Chief accountable for following them. Christopher Comm. Report, at 171. It also noted that the summaries regarding discipline provided to the Commission by the Department were superficial and provided after-the-fact with no analysis that would highlight trends or problem areas, thus leaving the Commission with “no effective way to ensure that its policies are followed.” *Id.* at 188-189.

⁴² Christopher Comm. Report, at 173, 178.

schedule for the Department was rebuffed by the Chief. Arguing that the Commission exceeded its Charter boundaries in recommending the discipline guidelines, the Chief refused to implement the Commission recommendations.⁴³ In effect, the Police Chief used his control over the discipline system to divest the Police Commission of jurisdiction over the discipline policy.

Disagreements over the role of the Police Commission in discipline have weakened the Commission's ability to carry out its oversight role. The Inspector General is supposed to be the "eyes and ears" of the Commission with the Charter-mandated responsibility to audit and monitor the complaint and disciplinary process, yet other City Charter provisions assign power over discipline to the Police Chief, not the Commission. Therefore, the Commission has not been effective in ensuring that the Inspector General's Office has access to the information it needs to perform its oversight responsibility.

Debate over whether a matter is within the purview of the Police Commission or the Chief obfuscates the real issue before the Department: is its discipline system working? However, the Police Commission's unresponsiveness to concerns about the disciplinary process, as voiced by the Department's own officers, is due in part to confusion as to its role. Bickering over boundaries and scope of authority has led to inaction.

The Commission cannot exercise true civilian oversight if there is an area that goes to the heart of police interaction with the community over which it does not have jurisdiction. When it cannot correct an ineffective and distrusted system, the Commission does not have real authority. It is therefore justifiably viewed by the community as weak.

Thus, as discussed below, any ambiguity concerning the Police Commission's authority over the disciplinary system must be removed. Vesting the Police Commission with authority

⁴³ The Department's lack of basic data collection and reporting concerning discipline was described at length and criticized by Merrick Bobb in his May 1996 Report to the Police Commission. Merrick J. Bobb, *et al.*, *Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of the Independent Commission Recommendations*, (May, 1996) (hereinafter Bobb Report). The Bobb Report recommended that the Commission formulate a discipline schedule or disciplinary guidelines for the Department, to ensure that officers are disciplined adequately and consistently. *Id.* at pp. 44-45. The Commission spent time formulating a set of disciplinary guidelines for the Department, but the Department refused to implement them. The Chief contended, with support from the City Attorney, that the Commission's attempt to implement guidelines infringed on his authority under the Charter. The Commission evidently felt it had no choice but to back down. See Susan Beck, *L.A. Confidential*, *The American Lawyer*, June 2000, at 120.

over discipline can help give credibility to the Department itself. Precisely because of its independence, it can serve to assure the community that the Department fairly disciplines its officers, thereby enhancing the credibility of the system. Where, as here, the system is criticized for double standards, retaliation, and an undue expenditure of resources without just result, the Police Commission must have clear authority to step in.

4. The Commission still does not have enough resources to do its job and is distracted by the permitting function.

Over and over again, people told this Panel that the Commission does not have enough resources to fulfill its Charter mandate. Commissioners do not have time to personally inquire into matters that come before them, nor do they have adequate staff to undertake the monitoring, in-depth analyses and investigations that Commissioners would like to see done. Past and present Commissioners have repeatedly stressed the need for more professional staff, including additional investigators and analysts.⁴⁴

Outside observers have made the same point for years. For example, in 1965, the McCone Commission stated: “[W]e urge that steps be taken immediately to arm the Board of Police Commissioners with all necessary tools to discharge its City Charter responsibilities. This will mean increased compensation for the Commissioners, more frequent meetings of the Board, a larger staff, and a revision of procedures that have been followed in the past.”⁴⁵

The Christopher Commission likewise urged that “[t]he Police Commission plainly needs additional resources to carry out its oversight and policy-making functions effectively. The Police Commission should have experienced auditors, accountants, investigators (including former police officers from the LAPD or elsewhere) and one or more attorneys to enable the Police Commission to identify problem areas, formulate and verify compliance with Police Commission policies and directives, and carry out ongoing functions (such as intelligence audits) in a timely manner.”⁴⁶

⁴⁴ For example, former Commission President Raymond C. Fisher has been quoted as saying that the Commission could “absolutely” do more “particularly if it’s given adequate resources.” Susan Beck, *L.A. Confidential*, *The American Lawyer*, June 2000, at 122. Similar views were expressed during a number of interviews conducted by this Panel.

⁴⁵ McCone Comm. Report, at 31.

⁴⁶ Christopher Comm. Report, at 212, 213.

In its review of progress on the Christopher Commission recommendations five years later, the Bobb Report admonished the Commission that in order to obtain full value from the Inspector General function and thereby “ensure that this Commission is able to fulfill its Charter responsibility,” the Commission still needed “to obtain adequate staff and resources” to support those job functions.⁴⁷

In summarizing the results of its investigation of the LAPD, the Department of Justice similarly “concluded that the Police Commission and Inspector General do not have the resources needed to conduct meaningful oversight of the LAPD in a consistent, ongoing manner.”⁴⁸

While some staffing increases have been approved in recent years, a number of the Commission’s requests have been turned down by the Mayor’s office and the City Council.⁴⁹ One former Commissioner observed that “it’s not until there’s a crisis that they decide to throw money at [the Commission].”

Nor does the Chief of Police appear to be interested in assisting the Commission where additional personnel are required to accomplish a project. For example, as recently of August of this year, the Chief of Police resisted the Commission’s request to provide three sergeants to work with the Office of the Inspector General to review Internal Affairs investigations and assist with special projects.⁵⁰

⁴⁷ Bobb Report, at 52.

⁴⁸ Letter from Bill Lann Lee (Acting Assistant Attorney General, Civil Rights Division) to James Hahn, May 8, 2000, at 3.

⁴⁹ For example, the Commission’s Fiscal Year 1998-99 Budget request sought to expand its staffing by adding several Management Analyst II, Senior Management Analyst I and Systems Analyst positions, in areas such as the Personnel Group, Discrimination Complaint Unit and Special Services Unit (OIS). A majority of those requested new positions were rejected during the budget process, although the 1999-2000 budget included funds for a Senior Management Analyst I for budget analysis, an additional Management Analyst II in the Policy Unit, and a Clerk Typist for the Personnel Group. Likewise, in the past year, although a number of *temporary* additional positions were funded in the Inspector General’s Office in connection with the Rampart probe, some proposed longer-term staffing additions, such as additional Management Analysts in the Grievance Unit, Discrimination Complaint Unit, and Executive Director staff, were rejected.

⁵⁰ See Memorandum From Chief of Police to Board of Police Commissioners, August 2, 2000 (asserting that the OIG should provide the necessary staffing for compiling information

Thus, while conditions have improved somewhat, the Police Commission still does not have enough resources to fulfill its Charter mandate. The Department employs approximately 13,000 employees, about 9,350 of whom are sworn officers – an increase of over 960 officers since the Christopher Commission Report in 1991. The Department's budget of nearly \$900 million is by far the largest of any City department. In contrast, the Police Commission operates with a staff of about 107 and a budget of about \$9 million. Even this comparison greatly overstates the Commission's relative resources, because approximately half of the Commission's staff and budget are devoted to permit-related functions – *not* civilian oversight of the Department.

The Commission's Executive Section, which supports the civilian oversight function, has only 22 staff members, including clerical support. Within that section, a three-person Policy Unit is responsible for reviewing proposed Department programs, policies, organizational changes, grant proposals which require prompt action, fiscal matters and legislation slated for Commission review. The Policy Unit also researches special projects for the Commission and prepares responses to correspondence from the public and government officials, which may call for complex analysis, research, interviews and follow up. Since 1998, the Commission has requested that all significant Department proposals and reports be accompanied by staff analysis. In the first six months of that year, the Department submitted 42 reports for action by the Commission that required staff analysis.

The Department budget also embodies a considerable amount of policy-making. The budget document is several feet of paper, and Commissioners do not have the time or expertise to analyze the budget to find out what important decisions about allocation of resources may be buried in the detail. The Commission's request for a budget analyst was denied last year. In August of this year, the Commission finally received approval to hire a budget analyst.

The Executive Section also includes the Personnel Group which addresses employee grievances and discrimination complaints. There is a backlog of 60 employee grievance cases and approximately 30 discrimination cases awaiting the attention of the Personnel Group. Timely resolution of employee grievances is crucial to maintaining morale within the

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within the LAPD as requested). The Chief did, however, provide the Police Commission two officers to assist with the permitting process.

Department. Right now, it takes an average of 20 months for a case to be assigned to an analyst. By the same token, complaints of discrimination must be addressed in a timely manner, in fairness to both the complainant and the accused, and to maintain the credibility of the Department.

5. Disagreement persists over the boundaries of the Commission's authority: Policy vs. operations.

The Department has historically maintained that the Police Commission's authority is limited to matters of "policy" (narrowly-defined) and does not extend to "operations" (broadly-defined). Insistence on this distinction limits the Commission's ability to influence subjects the Department deems to be "operational" and enables the Department to make policy choices without the Commission's input by calling them "operational" decisions.

For example, several months ago the Department changed the way data regarding complaints against officers is displayed in its Training Evaluation and Management System (TEAMS) reports. Previously, for purposes of paygrade advancement or promotion, or for determining a pattern of behavior in adjudicating a personnel complaint, TEAMS reports included complaints that were adjudicated as Unfounded or Exonerated. After the change, the reports included only complaints that were Sustained or Not Resolved. Notwithstanding the importance of a tracking system for risk management and other purposes, the Commission was not told of the change. According to the Department, the Commission was not notified because it was "a procedural change," not a "change in policy" and it was therefore "unnecessary to request the approval of the Police Commission."⁵¹

In fact, the Charter does not limit the Police Commission's authority to matters of "policy" or bar it from addressing "operational" matters. Rather, the Charter broadly empowers the Police Commission to "supervise, control, regulate and manage the department."⁵² This language does not exclude operational matters; on the contrary, it includes them. Although the Chief is empowered to "administer the affairs of the department,"⁵³ his or her power is subject to

⁵¹ See August 2, 2000 Memorandum from Chief of Police to Board of Police Commissioners; Fact Sheet, at 2.

⁵² Charter, § 506(a) (former § 78).

⁵³ Charter, § 574(b) (former § 79(a)).

the Police Commission's power to "issue instructions to the Chief of Police," except on matters of discipline that are specifically reserved to the Chief.⁵⁴

Many of the matters sufficiently important to warrant the attention of the Police Commission include both "policy" and "operational" elements. These include policies on use of deadly force and upper body restraints (commonly referred to as "chokeholds"), weapons issues, compressed work schedules and police interaction with non-English speaking community members, all of which the Commission has addressed at one time or another.

In keeping with good management practice, the Police Commission may often *choose* to delegate operational matters to the Chief and/or defer to Department judgments based on law enforcement expertise. Certainly, the Police Commission should not be spending its time focusing on day-to-day operational matters. That would defeat the purpose of hiring an experienced and professional Chief of Police and his or her command staff. *However*, the Commission must feel free to address any matter that it deems important in carrying out its mission regardless of whether the matter can be characterized as "operational." Fencing the Police Commission out of such matters only enhances the Department's insulation from the community.

None of our recommendations deal specifically with this policy/operations dichotomy. However, all of them are aimed at further strengthening the Police Commission. These steps would be undermined by acceptance of the notion that the Commission's authority is limited to matters of "policy" and does not extend to "operations."

6. The Mayor, the Chief and the City Council have not worked together with the Police Commission to solve problems within the Department.

We believe the current Charter structure for appointment and removal of Police Commissioners – which has remained essentially unchanged since the 1925 Charter and was recently carried over into the new Charter – is the right structure, and we are not recommending an overhaul of this design. But in order for the Charter structure to function as intended, the participants must abide by their assigned roles. The Mayor and the City Council must respect the Commission's sphere of authority *and* hold the Commission accountable for the functioning of the Department. The Mayor should not circumvent the Commission or undermine its

⁵⁴ Charter, § 571(b)(1) (former § 205(d)).

authority. Both the Mayor and the City Council must also use their budget powers to make sure that the Commission has sufficient resources. The City Council's Public Safety Committee needs to work closely with the Police Commission in setting agendas, visions and priorities for the Police Department. The Chief of Police must respect the authority of the Police Commission and cooperate with the Commission by providing all information requested by the Police Commission *and* the Inspector General in a timely fashion. To amplify:

The Mayor. As the Commission's appointing authority, the Mayor should communicate his or her vision and goals for the Department to the Commission, and hold the Commission accountable for the Department's performance by exercising the Mayor's power to remove Commissioners. While some have argued that the Mayor's power over the Commission undermines the independence of the Commission, we agree with those who believe that the Mayor, as the Chief Executive Officer of the City⁵⁵ who is elected by all of the voters, *should* have authority over the Commission and thus the Department. Accountability for the performance of the Commission should rest with the Mayor and not be diffused among several authorities.

For example, we do not believe the appointment process should be changed to resemble the City Ethics Commission, as some have suggested. The function of the Ethics Commission is vastly different than the function of the Police Commission,⁵⁶ and we do not believe it is the appropriate model for managing the City's police force. Ethics Commissioners are appointed differently than other City commissioners in that the Mayor, the City Attorney, the Controller, the President of the City Council and the President Pro Tem of the Council each appoint one

⁵⁵ Section 230 of the Charter states: "[e]xcept as otherwise provided in the Charter, management authority shall be vested in the Mayor, who shall be the Chief Executive Officer of the City"

⁵⁶ The Ethics Commission is responsible for administering and implementing the laws regarding campaign finance, lobbying, conflicts of interest and governmental ethics. Charter § 702. Among other duties, it is charged with investigating alleged violations of law regarding campaign finance, lobbying, conflicts of interest and governmental ethics. The Ethics Commission has a prosecutorial and judicial function as well: it is empowered to conduct confidential investigations, bring administrative charges against alleged violators, hold evidentiary hearings to determine if a violation has occurred, and order violators to cease and desist, make required filings and pay penalties up to \$5,000 per violation. *See* Charter § 706.

candidate to the Ethics Commission, all subject to confirmation by a majority of the Council.⁵⁷ In our view, this would disperse accountability in several different directions. No appointing authority would command a majority of the Commission, so all could disclaim responsibility for performance of the Commission, and therefore the Department. Finally, the Police Commission must both reflect the diversity of our city and be a cohesive group that can work effectively together. Only a single appointing authority can balance these considerations and ensure the right mix of commissioners.

Ethics Commissioners also have much stronger protection against removal than other City Commissioners.⁵⁸ Given the nature of their duties, the reason for tenure protection is obvious. It is less obvious in the case of Police Commissioners. The position of Chief of Police enjoyed strong tenure protection for many years, until the Christopher Commission urged that the Chief's position be stripped of civil service protection and the Charter was amended accordingly. The Chief now serves "at the pleasure of the City."⁵⁹ If the Commissioners who supervise the Chief are given stronger protection against removal, they will be less accountable to the Mayor, who in turn is accountable to the voters. Another danger is that the Mayor would be able to disclaim responsibility for the Commission and the Department if the Mayor cannot replace Commissioners. For these reasons, this Panel does not support a shift to the Ethics Commission structure for the Police Commission.

The Police Commission's job is, among other things, to carry forth its vision with Mayoral input. The Mayor's power to remove Commissioners and to override the Commission's removal of a Chief ensures that Commissioners will listen to the Mayor. But this structure also means that as a practical matter the Chief is secure if he or she has the backing of the Mayor. This structure can only work if the Mayor communicates his or her vision and priorities to the Commission in the first instance, and then allows the Commission to exercise its authority over the Department, instead of bypassing the Commission and communicating directly with the Chief of Police on important issues. Where, as here, the Mayor is seen to bypass the Police

⁵⁷ Charter, § 700(b).

⁵⁸ Ethics Commissioners may be removed by the Mayor with the concurrence of the Council by majority vote, or by a 2/3 vote of the Council – but only for cause as defined in the Charter, and after written notice of the grounds and an opportunity to reply. Charter § 700(e).

⁵⁹ Charter § 575(d).

Commission and deals directly with the Chief of Police without including the Commission, the authority of the Police Commission is undermined. The current Mayor's representative interviewed by this Panel frankly acknowledged that the Mayor and the Chief talk frequently about important issues without involving the Commission. The Mayor and the Chief are often seen as acting together, with the Commission nowhere visible. For example, a front-page story in the September 12, 2000, Los Angeles Times reported on plans announced by the Mayor and the Chief for reducing crime. No mention is made of any part the Police Commission may have played in this initiative. Whether real or apparent, this direct alliance between the Chief and the Mayor marginalizes the Commission, usurps its authority and leaves it dealing with only those "leftovers" with which the Mayor does not want to bother.

At the other extreme is the efforts of the Mayor's office to micro-manage the Police Commission by attempting to dictate what items go on the agenda and what the Commission's policies and positions should be. These efforts have further undermined the Commission's authority in the eyes of the Department and its independence in the eyes of the public. The next Mayor should select Commissioners who share his or her vision and then give them the independence and backing they need to provide effective civilian oversight of the Department.

The City Council. The Mayor's authority over the Commission is not absolute. The City Council must approve appointments to the Commission.⁶⁰ The Mayor's power to remove a Commissioner is subject to the removed Commissioner's right to appeal to the Council, which may then reinstate the Commissioner by a 2/3 vote.⁶¹ The Mayor's power to override the removal of a Chief is subject to the Council's power to assert jurisdiction over the removal of a Chief.⁶² The Council also has the power to veto a Commission action,⁶³ as well as power over the Commission's budget and compensation. The current structure thus provides a mixture of accountability and "checks and balances."

The City Council must live up to its Charter-defined place in the scheme. It should not merely "rubber stamp" the Mayor's appointments to the Commission, as is the widely-

⁶⁰ Charter § 502(a).

⁶¹ Charter, § 502(d).

⁶² Charter § 575(d).

⁶³ Charter, § 245.

acknowledged custom. Deference to the Mayor's appointments is appropriate, but the Council must also satisfy itself that Commissioners are qualified and will vigorously address the issues important to the Council and the citizenry it represents. By the same token, the Council should communicate its willingness to support Commissioners against unwarranted removal by the Mayor.

The responsibility to make the process work effectively should rest with particular weight upon the Council's Public Safety Committee, which is the legislative body with the most direct oversight responsibility over the City's law enforcement functions. There should be regular communication and feedback between the members of that Committee and the Commission, to ensure both that the Commission is responding adequately to the concerns expressed by the City's citizens and to ensure that the Commission has adequate resources to accomplish its job of providing meaningful civilian oversight. This includes not only ensuring that the Commission's budget requests are given sufficient priority in each stage of the budget process, but also giving political backing to the Commission when it faces resistance, or a lack of responsiveness and cooperation, from an independently-minded Chief of Police. In addition, the Committee could further assist the civilian oversight process by periodically holding hearings to review the progress being made by the Department in implementing various suggested reforms, to give voice and visibility to developing civilian concerns, and to give political support for new initiatives that would advance reform and effective civilian oversight.

The Chief of Police. The Charter clearly provides that the Chief of Police answers to the Police Commission, which has the power to instruct the Chief and to remove the Chief. But, as discussed above, the Commission depends on the Department for the information it needs to instruct and evaluate the Chief. This gives the Chief a practical ability to thwart the Commission's attempts at oversight, should he or she choose to do so.

It is incumbent on the Chief to respect the Commission's authority and oversight function by making sure the Commission receives the information it needs and asks for on a timely basis, including information requested by the Inspector General. If the Commission is "in the loop" it can validate the Chief's decisions (or re-direct them if need be). This protects the Chief.

7. The Office of Inspector General is severely understaffed.

The creation of an Office of the Inspector General to serve as the "eyes and ears" of the Police Commission was a key recommendation of the Christopher Commission. That

recommendation was implemented by Charter Amendment 3, approved by the voters of the City of Los Angeles in April 1995. The Charter currently authorizes the Inspector General (1) to audit, investigate, and oversee the Police Department's handling of complaints of misconduct by police officers and civilian employees; (2) to conduct any audit or investigation requested by a majority vote of the Police Commission; (3) to initiate any investigation or audit of the Police Department without the prior consent of the Board, subject to the authority of the Police Commission to terminate the audit or investigation; and (4) to perform other duties assigned by the Police Commission.⁶⁴ The Charter grants the Inspector General the same access to Department information as the Police Commission,⁶⁵ and it allows him or her to appoint and supervise employees to assist with investigative and auditing responsibilities.⁶⁶

Because the Christopher Commission envisioned that the Police Commission would have a staff of attorneys, investigators, and auditors to assist it in gathering information concerning the Department, it thought the Inspector General would need only a "small staff" to audit, investigate, and oversee the disciplinary process. But the Police Commission does not have such an investigative staff, and the Office of the Inspector General has never received the staff and resources necessary to investigate the Department's handling of allegations of officer misconduct or to monitor effectively the complaint process. Further, the Inspector General's Office should periodically monitor an investigation of officer misconduct from the outset to assess the quality of the Department's investigations. To function effectively, the Inspector General needs a greatly expanded staff.

The Office of the Inspector General currently consists of the Inspector General, an Assistant Inspector General, two sworn officers, six Management Analyst positions (one of which is currently vacant), a Senior Management Analyst, a Systems Analyst position (which is currently unfilled), and three clerical employees. The positions of Assistant Inspector General, Senior Management Analyst, and Systems Analyst were all added this year. For the next budget

⁶⁴ Charter, § 573 (former §206(d)).

⁶⁵ Charter, § 573.

⁶⁶ Charter, § 573(e).

year, the Inspector General has requested funding for a small number of civilian investigators.⁶⁷ The office has no trained auditors.

Each year, citizens and the Department's supervisors make thousands of complaints (a total of 4,755 in 1999)⁶⁸ against LAPD employees, covering everything from discourtesy to excessive force. The management analysts in the Inspector General's Office spend the great bulk of their time reviewing the disciplinary investigations that result from these complaints. As a result of the minimal staffing of the office, the monitoring of these complaints is cursory. The Inspector General's staff cannot, except in the most extraordinary cases, re-interview witnesses, listen to audiotaped interviews of witnesses, or review the documents and physical evidence obtained by Department investigators. As a result, the Inspector General's staff must rely on the summaries prepared by Internal Affairs Group and are not able to ensure that those summaries accurately reflect the evidence.⁶⁹

To carry out its responsibilities – and to allow the Police Commission to carry out *its* responsibilities – the OIG needs a significantly larger staff, with the skills, training, and experience to conduct investigations, interview witnesses, analyze documents and physical evidence, compile statistical data, and identify trends or warning signs of misconduct. The lack of trained auditors and the presence of only two trained investigators inhibits the Inspector General's ability to investigate the Department's handling of individual complaints to determine whether the Department conducted a thorough and unbiased investigation; to conduct its own investigations to identify officer misconduct or mishandling of public complaints; and to audit the Department's overall handling and investigation of complaints. The Christopher Commission contemplated that the Inspector General would issue an annual audit report concerning the Department's handling of public complaints. Because of staff shortages and lack of resources, the Inspector General has not been able to prepare such an audit report. The

⁶⁷ The City currently does not employ civilian investigators; the position was recently created by the City Council at the request of the Inspector General and the City Controller. *Sparks Fly Over Investigator Proposal*, Los Angeles Daily Journal, Aug. 8, 2000, at 2.

⁶⁸ LAPD Complaint Database, May 16, 2000 report.

⁶⁹ The Office's minimal staffing impacts other aspects of the Inspector General's duties. For example, the Inspector General cannot spare staff to attend community meetings to raise the Office's profile and describe its function and role to the public.

Christopher Commission also recommended that the Inspector General or his representative sit as a voting member on Board of Rights panels. While we do not believe that the Inspector General's auditing responsibility is consistent with the membership on the Board of Rights, the Inspector General should monitor and audit all Boards of Rights hearings. The OIG, however, lacks adequate staff to perform this function.

Turnover among the Management Analysts exacerbates the staffing problems in the Inspector General's Office. Because of its small size, the Office has a very limited promotional ladder. As a result, experienced civil service workers must leave the Inspector General's office in order to secure promotions. When they leave, the Inspector General loses the institutional knowledge of the Department and the disciplinary process that the employees have accumulated over their term of service. While the Inspector General can and has obtained exemptions in order to retain particular employees in certain cases, the Office needs to have a promotional ladder to maintain experienced staff members who understand police issues and how the Department operates.

8. The Department has seriously impeded the work of the Office of Inspector General by failing to cooperate with the Office's requests.

In addition to being severely understaffed, the Office of the Inspector General has been systematically hobbled by lack of cooperation from the Department. Our interviews indicate that on some occasions the Department ignores Inspector General requests for information, even after repeated follow-up conversations seeking the information. In other cases, the Department responds to the request only after repeated reminders by the Inspector General's small staff. At other times, the Department places burdensome requirements on the Inspector General's access to information. Particularly given the Office's small staff and limited resources, these obstacles have seriously impeded the Inspector General's ability to perform the first step toward effective oversight: gathering information about the Department.

For example, beginning in May 2000, the Inspector General initiated three separate inquiries to the Department concerning TEAMS reports on individual officers. The Inspector General wanted to know why these reports no longer listed complaints that were "Unfounded" or "Exonerated." After months of failing to acknowledge even that it was working on the matter, on August 2, 2000, Chief Parks finally responded in a memorandum to the Commission, *without* sending a copy to the Inspector General.

By Charter, the Inspector General enjoys the same access to Department information as the Police Commission.⁷⁰ In resolutions passed in 1996 and then again in January 1999, the Commission gave the Inspector General “complete and unrestricted access to all Los Angeles Police Department records, reports, audits, reviews, plans, projections, documents, files, contracts, memoranda, correspondence, data, or information, on audio/video/computer tape/disc, or other materials of the LAPD.”⁷¹ In addition, the Inspector General was permitted prompt and direct access to the employees of the Department and the Board, as well as the power to subpoena witnesses and evidence.⁷²

The Department has repeatedly failed to comply with these orders. Instead, the Department insists that its Chief of Staff approve all requests for information before information is provided to the Inspector General. The Department construes this approval requirement so strictly that officers will not even provide identifying information about documents to the Inspector General to assist the Office in generating specific queries.

Furthermore, the Department often insists that the Inspector General’s staff travel to remote locations to review information, rather than simply provide copies. In one case, the Inspector General requested a copy of a sixteen-hour tape-recorded Internal Affairs interview, and was told that the tape could be reviewed only by traveling to the Division headquarters and listening to it there. The Department would not copy the tape, purportedly because the investigation was in progress. Similarly, the Department will not access Internal Affairs Group investigation files, unless the Inspector General’s staff provides not only the file number, which alone suffices to identify the file, but also the name of the accused officer, the name of the complaining witnesses, and the location of the incident. Given the limited staff and resources available to the Inspector General, these forms of bureaucratic resistance represent major impediments to effective oversight.

⁷⁰ Charter, §573.

⁷¹ Office of the Inspector General Six-Month Report, January 1997, at 4 and Attachment B (hereinafter *OIG Six-Month Report*); Board of Police Commissioners, Motion Relative to the Inspector General, § II.(A)(1), ratified January 7, 1999.

⁷² *OIG Six-Month Report*, at 4 and Attachment B; Board of Police Commissioners, Motion Relative to the Inspector General, § II.(A)(1), ratified January 7, 1999.

In addition to the Department's lack of cooperation with the auditing process, there is no formalized mechanism by which the Department must respond to OIG findings. Accordingly, the OIG is currently without any power to effectuate meaningful oversight.

The resistance faced by the Office of Inspector General is not solely a matter of specific procedures. It is also a matter of institutional culture. LAPD command staff, including Chief Parks, have treated the Office as an unwelcome intruder, instead of as a partner in safeguarding both the actual and perceived integrity of the Department. By doing so the Department has squandered a valuable opportunity. To a large extent, the Department's failure in this regard is of a piece with a more general problem, discussed elsewhere in this report: the persistent failure of the LAPD and its command staff to work in true partnership with its officers, its civilian employees, and the communities it serves.

Here, as elsewhere, the Police Commission must bear some of the responsibility. The Commission, and only the Commission, can direct the Chief to give the OIG quicker and easier access to information. Unlike the Commission, the Inspector General has no supervisory powers over the Department and Chief of Police and therefore is not able to compel compliance with the Office's requests for information. The Police Commission has the power to ensure that the Inspector General's Office obtains access to the information it needs. A strong showing of Commission support for the Inspector General can improve cooperation from the Department.⁷³ Conversely, the Commission's failure to insist on prompt, routine cooperation with the OIG's requests sends the Department a message that bureaucratic resistance will be tolerated.

Similarly, the Police Commission needs to require meaningful responses from the Department regarding the OIG's findings.

⁷³ In the first few months after Katherine Mader was appointed as Inspector General, she reported that Departmental compliance with her requests for information "was sporadic, delayed, and occasionally refused." OIG Six Month Report, p. 4. At Mader's request, the Police Commission passed a resolution granting the Inspector General broad access to information. The Police Commission instructed then-Police Chief Willie Williams to disseminate that resolution throughout the Department. As a result of the Board's actions, Mader reported that "there has been a significant change in attitude during the past three months." While "occasional problems" continued to exist, the Department provided the Inspector General with computer access to all automated systems containing disciplinary data and access to any other requested document. *Id.* at 4-5.

In part because the effectiveness of the Inspector General depends so heavily on strong, consistent support from the Police Commission, the Panel does not recommend that the OIG operate more independently of the Commission.⁷⁴ To be sure, greater independence would bolster the Inspector General's ability to resist any pressure that might arise in the future from a Commission that wished to muzzle the Inspector General. But an independent, unaccountable OIG would present risks of its own. More importantly, experience has shown that the Commission and the OIG work best when they work cooperatively. The Inspector General needs the backing of the Commission to get the information requested from the Department. In turn, the OIG offers the Commission a critical tool for enhancing its own oversight of the Department. To date, the Commission has not communicated its priorities or provided direction to the OIG. Thus, the OIG has accomplished far less than it should, in part because it has not received the resources it needs, and in part because it has not received the cooperation and political support that it needs.

Recommendations

- 1.1. The President of the Police Commission should serve full-time and should be compensated at the same salary as the Chief of Police. The Vice President of the Police Commission should also serve full-time and should be compensated at the same salary as a Deputy Chief II. The remaining three part-time commissioners should be compensated at \$25,000 a year, to reflect the importance of the position and the significant time commitment required.**

There is widespread support for at least a full-time President of the Police Commission to direct the work of the Commission. Councilmember Cindy Miscikowski, the current Chair of the City Council's Public Safety Committee, told this Panel that she believes at least one of the

⁷⁴ The Police Commission has the power to appoint and remove the Inspector General. Charter, §571(b)(4) (former §205(f)). The position of Inspector General is exempt from the civil service provisions of the Charter. *Id.* The Inspector General has no specified term of office and can be terminated by the Police Commission at any time. The Commission's power to appoint and remove the Inspector General is subject to the veto power of the City Council, which can override the Board's decision by a two-thirds vote. Charter, §571(b)(4); Charter, §245. The Commission has the authority to supervise the Inspector General's investigations; can establish rules for the Inspector General's audits, investigations, and oversight of the Department's handling of misconduct complaints; and can direct the Inspector General to discontinue an investigation or begin an investigation. Charter, §573. The Inspector General is obligated to

Commissioners should be employed on a full-time basis. Similarly, Councilmember Laura Chick, the former Chair of the Public Safety Committee, has said that "instead of a part-time volunteer commission, we need a full-time, paid one." Most recently, The Los Angeles Times editorialized that "the part-time volunteer commission has been a weak link in civilian control of [the LAPD]."⁷⁵ Many present and former Police Commissioners have told the Panel that more time to do the job is needed, from at least one, and perhaps all, of the Commissioners. Similarly, the recent analysis by Professor Erwin C. Chemerinsky reported similar sentiments, and strongly endorsed the need for a full-time Commission. In light of the issues identified above, we believe that the civilian oversight function needs someone "minding the store" on a full-time basis to ensure that agendas are properly set, that sufficient information is obtained from the Department, and that meaningful follow-through is taking place on analyses and recommendations.

We considered whether all Commissioners should serve full-time. Like the Christopher Commission, we decided against five full-time Commissioners. Our concern is that shifting all Commissioners to full-time status would lay the foundation for an unnecessary bureaucracy. Given the Department's own administrative apparatus, expanding the Police Commission to include five full-time Commissioners also could create structural impediments to efficient administration of the Department. The role of the Police Commission is supervisory, and we do not believe a second bureaucracy should be established to run the Department. Day-to-day management of the Department is and should be the job of the Chief of Police. Moreover, the open meeting requirements of the Brown Act⁷⁶ prevent a majority of Commissioners from meeting together informally, a constraint that could prove unwieldy in practice if all five Commissioners are working at the same job full-time. Finally, as the Christopher Commission pointed out, this step might diminish the pool of persons able to serve on the Police Commission.

We are persuaded, however, that the President must serve full-time. The Police Commission needs a full-time leader for whom the Commission is a "day job." A full-time President will be able to devote his or her full attention to the task of understanding the many

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keep the Police Commission informed as to the status of all pending investigations and audits. *Id.*

⁷⁵ *New Era for LAPD Reform*, Los Angeles Times, September 21, 2000, at B14.

⁷⁶ Government Code §§ 54950 *et seq.*

issues facing the Department and the community, understanding how the Department works, identifying priorities, setting agendas and communicating with the Chief. The President would be better able to deploy the other part-time Commissioners and the Commission staff more effectively.

We are also persuaded that the Vice President of the Commission should serve full-time. This would give the President the support of a second full-time perspective, and someone to share the burden. With two full-time members, the Police Commission would resemble a Board of Directors with “inside” and “outside” directors, a structure that could strengthen the Presidency as well as the entire Commission.

The remaining part-time Commissioners would still have equal votes on the Police Commission, and the value of a five-member Board with its mix of perspectives would be preserved. These Commissioners have the important task of bringing community perspective to the Commission’s work. Their voices are integral to balancing the authority of the full-time Commissioners and to helping them set priorities and agendas for the Commission.

We are recommending that the full-time President of the Police Commission be paid the same salary as the Chief of Police, an amount we deem commensurate with the status and demands of the job. Because this position has historically been a part-time, unpaid position, Presidents have had to work at other jobs while serving on the Commission. If the President is to serve full-time, he or she must be paid a salary sufficient to attract persons of the required caliber. For the same reasons, we recommend that the Vice President be paid the same salary as a Deputy Chief II.

Under the Charter, the Police Commission elects its President and Vice President from among those already appointed to the Commission.⁷⁷ If these positions are to be full-time, this mechanism will no longer fit, since not every Commissioner will be willing or able to serve full-time. We recommend that the Charter be amended to provide that the Mayor will appoint the President and Vice President of the Commission, subject to approval by the City Council. If the Mayor appoints a current member of the Police Commission to serve as President or Vice President, the City Council will still need to approve the appointment to the Presidency or Vice Presidency. If the Mayor appoints a non-Commission member to serve as President or Vice

⁷⁷ Charter § 503(a).

President, the City Council will need to approve the appointment of that person to the Police Commission and to the Presidency or Vice Presidency. Since the Mayor already appoints the members of the Police Commission, this change will not greatly alter the appointment process as a practical matter.

Further, we recommend that the part-time Commissioners be paid approximately \$25,000 per year for their part-time work. The Commissioners devote considerable time and effort to their jobs, something the Christopher Commission recognized in recommending that Police Commissioners be paid \$1,500 per month.⁷⁸ This recommendation, which was not adopted, should now be implemented with an increase in the amount to \$25,000 per year.

1.2. The Police Commission should have overall control and oversight of the disciplinary system, except in individual cases where the imposition of punishment rests with the Chief. Consistent with its oversight responsibilities to ensure the credibility of the disciplinary system, the Police Commission should be given authority to set guidelines for disciplinary policy and hold the chief accountable for following them.

We recommend a change in the City Charter to make clear that the Police Commission should have overall control and oversight of the disciplinary system, except that the imposition of punishment should rest with the Chief as currently provided by law. Consistent with its oversight responsibilities, to ensure the credibility of the disciplinary system, the Police Commission should be given authority to set guidelines for disciplinary policy and hold the Chief accountable for following them.

The Police Commission needs to be active in both the structure and implementation of discipline. As to structure, the Panel recommends that the Police Commission adopt a matrix system as set forth in Chapter 4. In addition, up-to-date statistics need to be kept regarding implementation of that system and the resources exhausted by the process. The job of monitoring the disciplinary system cannot stop with adoption of guidelines. It must be an ongoing process. However, with the exception of involving itself in individual cases, there should be no area off-limits to the Commission with respect to discipline and no arguments about boundaries. It is the Police Commission which should have ultimate control over the effectiveness of the discipline system.

⁷⁸ Christopher Comm. Report, at 211.

1.3. The Police Commission should be relieved of its permitting function.

The Christopher Commission recommended that the Police Commission be relieved of the permitting function, and the Charter was subsequently amended accordingly.⁷⁹ But this function is still assigned by Ordinance to the Police Commission.⁸⁰ Even though most of the work is done by the Commission's staff and subsidiary bodies, this task imposes yet another distraction on the Commissioners and the Executive Director.

The permitting function is not part of the Police Commission's primary mission. It is a distraction that undermines the Police Commission's ability to focus on overseeing the Department. The permitting function should be transferred to the Department or another body by Ordinance. We recognize that this will likely mean that the Commission staff who are devoted to the permitting function will be transferred as well, which will mean an overall reduction in the Commission's staff. At the same time, we recommend that the staffing for the Police Commission's primary mission of civilian oversight be increased. The net result will be a streamlined and enhanced organization focused solely on management and oversight of the Department.

1.4. The Police Commission's staff should be increased and reorganized.

We recommend that the Police Commission's staff be increased in the FY 2001-2002 budget and that the Commission's internal organizational structure be reorganized in some respects, as set forth below. The precise budgetary needs of the Police Commission are best specified during the budget process by the Commission's Executive Director and Inspector General. Their requests in recent years have been reasonable. We are not privy to the reasons why many of the recent requests for additional staff were denied, but those considerations pale by comparison with the need for strong and effective civilian oversight, by a Commission armed with timely and accurate information. Without limiting what is appropriate, we suggest the following:

- (a) All Police Commission functions other than the Inspector General function should be placed under the authority of the Executive Director. Thus, the Office of the

⁷⁹ Christopher Comm. Report, at 208.

Board Secretary should be placed under the supervision of the Executive Director and should continue to handle all agendas, correspondence and scheduling for the Commission. The Executive Director should continue to supervise the Policy Group and the Personnel Group.

- (b) The Policy Group should consist of the existing Policy Unit, the Commission's Budget Analyst, and its Community Policing Liaison.
- (c) The existing Policy Unit should be increased by the addition of one Management Analyst II, so that it will consist of three Management Analyst II's under the supervision of one Senior Management Analyst I.
- (d) The Commission's Special Services (Use of Force) Unit should be transferred to the Office of the Inspector General and the staff increased. This unit is currently a subdivision of the Policy Group and is staffed with three Management Analysts responsible for analyzing Officer-Involved Shootings and other use of force incidents. The Office of the Inspector General also reviews use of force cases. This function should be consolidated into one place and it logically falls under the supervision of the Inspector General.
- (e) The Personnel Group must also receive more staff to eliminate the backlog of grievances and discrimination complaints, and thereafter stay current with those matters. The Grievance Unit and the Discrimination Unit should each receive two additional Management Analyst IIs, so that each unit will consist of four Management Analyst IIs under the supervision of a Senior Management Analyst I and the Group supervised by a Senior Management Analyst II.
- (f) Consistent with our recommendation that the Police Commission be relieved of the permitting function, the Commission Investigation Division and the Police Permit Review Panel should be transferred away from the Police Commission to the Department or another body.

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⁸⁰ Municipal Code, §§ 103 *et seq.*; Administrative Code of the City of Los Angeles, § 22.221.

- (g) The Office of the Inspector General should be given significant additional resources to fulfill its Charter-mandated function and address the current overwhelming backlog of complaint cases.

There is a division of opinions as to whether the audit function of the Commission should be the exclusive responsibility of the Inspector General or split between the Inspector General and the Executive Director, with the audits relating to misconduct and discipline assigned to the Inspector General and others to the Executive Director. We recommend that all audits of the Department's handling of civilian complaints, the disciplinary system, and OIS/UOF incidents should be conducted by the Inspector General's Office. All operational (nondisciplinary) audits should be conducted by the Executive Director.

1.5. The Inspector General's staff should be significantly expanded.

The Office of the Inspector General is critically understaffed. It needs additional staff to perform its primary responsibility of monitoring the discipline process and to conduct investigations and audits at the request of the Commission and on its own initiative.

With appropriate resources, the Inspector General can ensure that the Department is responsive to valid public complaints, monitor the quality of internal Departmental investigations and the appropriateness of the discipline imposed for various offenses, and track patterns of disciplinary complaints that suggest broader problems. It can also provide the Commission with the information it needs to manage and reform the Department.

As a result of staff shortages, the Inspector General has been unable to issue an annual audit report on the Department's disciplinary process and track trends. To better perform this essential function, the Inspector General should be given a larger staff of Management Analysts, supplemented with trained auditors and an additional Systems Analyst. The OIG needs auditors and a Systems Analyst to create databases of disciplinary information, to ensure that the disciplinary cases are properly classified, and to conduct statistical analyses of the data to spot trends and patterns of misconduct.

Moreover, the Inspector General needs additional Management Analysts and Senior Management Analysts to monitor Board of Rights hearings. The Christopher Commission envisioned that the Inspector General or a representative of the Office would actually participate on each of Board of Rights panel. At a bare minimum, the OIG should monitor a sample of these proceedings, particularly cases arising from public complaints. The Inspector General's

representative should observe the hearing, determine whether the process is fair to both the officer and the complainant, monitor panel deliberations, determine whether the findings of the Board of Rights panel are supported by the evidence, and ensure that discipline is imposed in a fair, consistent, and impartial manner.

The Inspector General also needs more staff – including more trained investigators – to allow periodic monitoring of disciplinary investigations from the outset to ensure that investigations are conducted thoroughly and accurately. With such direct access to the evidence and the actual statements of the witnesses, the Inspector General is better able to assess the fairness and appropriateness of the disciplinary process and the discipline imposed by the Department. In San Jose and Sacramento, California, civilian monitors actually participate in witness interviews, have access to all documents and physical evidence, and are called to the scene of officer-involved shootings. Our interviews with officials in those cities suggest that the participation of civilian monitors has not interfered with the Police Department's internal investigation.

Under the City Charter, the Inspector General's Office has the authority to conduct investigations on its own initiative or at the behest of the Police Commission. However, the Inspector General has never possessed an adequate staff to actually conduct these types of proactive inspections, investigations, and audits.

Proactive investigations by the OIG can play an important role in civilian oversight. While a better-funded Inspector General's Office might not have detected the misconduct of Officer Perez and others, an oversight inspection of the Rampart CRASH unit by an Inspector General with adequate resources might have uncovered warning signs that there were significant problems, including the systemic and widespread violations of police procedures.

The Department should continue to play the primary role of ensuring operational compliance with Department policies and procedures. However, the Police Commission needs to be certain that the Department is carrying out this responsibility. To do this, the Police Commission needs the ability to conduct its own inspections of the Department in order to detect negative trends or patterns of complaints, which may uncover evidence of misconduct or the warning signs that signal such misconduct. The Inspector General (who already performs investigations related to officer misconduct and discipline) is the logical person to conduct these important oversight inspections.

The Inspector General should have employees with training and experience to inspect and audit Departmental divisions and units for compliance with policies and procedures, perform system audits to evaluate the effectiveness and efficiency of procedures and systems, conduct investigations and audits as requested by the Commission, and investigate complaints against the Chief of Police and other high-ranking officers. In addition, when necessary, the investigators and auditors in this unit can be deployed to assist the investigations and audit groups with misconduct and disciplinary cases.

1.6 The Police Commission and the Department's command staff should ensure that all members of the Department cooperate promptly with the Inspector General's requests for information and access, including interviews and materials in ongoing investigations, and ensure that the Department meaningfully responds to OIG findings.

No matter how large its staff, the Office of the Inspector General cannot carry out its responsibilities without prompt cooperation with its requests for information and access. The Inspector General should not have to route his requests through LAPD command staff, nor should he or she be required to view or inspect materials on site that could be copied for the Office's use. More fundamentally, the LAPD's culture of resistance to the Inspector General must change. From the staff officers on down, the Department should recognize the Inspector General as a partner in the task of maintaining the actual and perceived integrity of the City's police officers.

The Police Commission has repeatedly directed the Department to grant the Inspector General full and unfettered access to information and investigative materials. The Commission should reiterate those instructions. More importantly, it should promulgate specific rules of access. Those rules should make clear, among other things, that requests from the Inspector General generally need not be routed through the Chief of Staff, and that, at the Inspector General's request, the Department should copy materials for his/her use rather than require that they be inspected on site.

Inappropriate limitations placed on the ability of the Inspector General to gather information necessarily limits the ability of the Police Commission to oversee and manage the Department. Thus, when the Inspector General encounters delays or bureaucratic obstacles, the Police Commission should use its supervisory powers to compel the Department to provide the Inspector General with prompt access to information. Furthermore, the Police Commission must

ensure, ideally through formalized mechanisms, that the Department appropriately responds to
OIG findings. Otherwise, the public's mandate to establish meaningful OIG oversight would be
meaningless.

CHAPTER 2

ETHICS, CULTURE, AND COMMUNITY POLICING

Introduction and Summary

The LAPD of today is not the LAPD of a generation ago. Today's officers have fewer years of policing experience, and are more diverse in gender, ethnicity and prior employment experience. Fewer officers have military backgrounds. More officers have college degrees. Officers are more likely to criticize management, and less likely to remain at LAPD throughout their careers.

The Department's approach to policing is also changing. LAPD is moving from its traditional focus on what it refers to as the "professional model" of policing, centered on crime-fighting with minimal contact with the public, to include community policing, with its emphasis on problem-solving, community involvement, and crime prevention. The Department also has struggled to change in response to a seemingly ongoing set of scandals and problems that have affected the way the community views the Department. As one sergeant, who has been with LAPD for more than 25 years, told us, "People are more informed, less trustful, and more willing to question an officer's decisions."

To a troubling extent, however, the culture of the LAPD remains committed to "top down" management, rather than to collaborative problem-solving. Command and management staff have failed to treat officers as full partners in the Department's mission; sworn officers have failed to treat the Department's civilian employees as full partners in that mission; and the Department as a whole has failed to treat the communities it serves as full partners in the tasks of public safety. Training in ethics and integrity, moreover, has remained limited, haphazard, and only marginally effective.

These failures seriously undermine effective and ethical policing in Los Angeles. Morale among officers is alarmingly low. The Department has great difficulty recruiting and retaining sworn and non-sworn employees. Community policing – which must be at the heart of the Department's efforts to reestablish its credibility with the public – remains more a slogan than a reality. And ethics remains almost an afterthought in the training of the City's police officers.

The vast majority of Los Angeles police officers have high ethical standards and a strong commitment to public service. Without these standards and this commitment, they would be

unlikely to have chosen the stressful and dangerous occupation of policing. But the internal cultural problems described in this chapter undermine effective policing in Los Angeles on a day-to-day basis. Unless addressed they will be a significant stumbling block to meaningful change by the Department.

Methodology

To assess attitudes and outlooks within the Department, members of the Panel conducted personal interviews of 59 randomly selected patrol officers, sergeants, detectives and lieutenants, representative of all four geographic Bureaus. Each interview was wide-ranging and lasted between thirty minutes and two hours.

We also distributed a written survey to virtually all sworn officers. More than 2,100 officers responded. In rank, length of service, and gender, they closely mirror the demographics of the Department. The survey asked officers to indicate whether they agree or disagree with a series of statements. It also contained several open-ended questions and included space for officers to provide additional comments. Many officers did provide written comments, some of which were extensive and pointed. We were impressed by the sheer volume and the intensity of the officers' written comments, and by the consistency of the sentiments expressed.

Both our in-person interviews and the survey were conducted anonymously; officers' identities were not recorded. The views expressed in the interviews were entirely consistent with the survey results.

We interviewed Chief Parks on issues related to our working group, as well as several members of the command staff, including Deputy Chief Martin Pomeroy, Commanders Willie L. Pannell, Garrett W. Zimmon, and David R. Doan, and Chief Management Analysts Laura Johnson and David T. Peterson. We spoke with Captain James P. McDonnell, who is in charge of community policing, and Captain Richard Wemmer, who is in charge of training. We interviewed Dr. Robin Greene, Director of Police Training and Education, the Department's Chief Psychologist, Dr. Debra Glaser, and several retired police officers. We also interviewed a range of civilian LAPD employees.

In addition, we conducted or participated in interviews of numerous members of the community, including members of Neighborhood Watch groups, community leaders, and participants on Community-Police Advisory Boards. We also conducted focus groups with 35

randomly selected teenagers in three different areas of the City, to learn about their experiences with and attitudes toward the LAPD.

Finally, we reviewed training materials and materials on community policing used by LAPD and other police departments, and academic literature on police culture, ethics, and community policing. We also contacted other police departments to discuss their approaches to these issues.

Findings

- 1. Morale within the Department is alarmingly low and significantly impedes effective and ethical law enforcement, in large part because management has failed to make officers feel they are full partners in fulfilling the Department's mission.**

The scores of interviews we conducted and the more than 2,100 survey responses we reviewed make clear that morale among Los Angeles police officers is alarmingly low. The officers themselves recognize the problem. Respondents to our survey strongly agreed with the statement that morale has been declining over the past few years, and most also strongly agreed that, while they are proud of the past reputation of the Department, they are not proud of its current reputation. Low morale also was a clear and recurrent theme of the written comments many officers added to their survey responses. One officer wrote, "This department has deteriorated from the finest to just another ineffective big city police department. Pride, integrity and morale have never been lower." Another complained that "[m]orale has steadily declined. . . . [W]e are [a] sad shadow of what we had been. We need help." Still another commented, "When I came on [LAPD] it was a proud day. Now I would not advise my worst enemy to join."

The randomly selected officers whom we interviewed also told us that morale was lower than it has ever been. One officer with more than 20 years of experience said the job had been very rewarding, "but I wouldn't come to LAPD today." A sergeant with 28 years of experience said, "I used to like police work. I don't like it now." Our interviews and the survey reveal that many younger officers are considering leaving LAPD, and many older officers are simply biding their time until retirement.

Many factors contribute to LAPD's low morale. Officers overwhelmingly feel that the Department's refusal to agree to a compressed work schedule – under which officers work three, twelve-hour shifts per week – has greatly contributed to officer dissatisfaction. Many officers believe that they are underpaid compared to officers in other departments. Some officers resent

what they believe is a “lowering” of hiring standards and an influx of poorly qualified officers. But perhaps a deeper cause of low morale among Los Angeles police officers is their feeling that their views and interests are systematically ignored by the Department.

Officers are overwhelmingly distrustful of management and hostile to the command staff. Officers strongly agreed with the survey statement that morale has been affected by mismanagement of the Department. One officer whom we interviewed told us that the current police administration “acts like they expect us to ‘screw up.’” This feeling is widespread and was expressed repeatedly in comments to our survey. Officers feel management does not care about them, does not listen to them, does not trust them, and second-guesses them too often. Officers feel that even good police work will be criticized or even punished. There has been, officers feel, a dramatic reduction in positive reinforcement for a job well done.⁸¹

Many officers also feel that management’s policies and even substantive policing strategies are dictated only by public relations. Officers told us that they feel the Department is afraid to act effectively and decisively. (Some cited the Department’s response to incidents near Staples Center after the Lakers won the NBA championship as an example of both poor police strategy and poor public relations. We heard repeatedly from officers who were embarrassed by the Department’s claim that it had responded successfully, despite the property damage suffered.) Even in more routine situations, we were told, LAPD’s responses are dictated by “how it will look,” not by effective police techniques. One survey respondent summarized the point:

Let police officers be police officers. We know what to do and how to do police work but are prevented by upper management because they are scared about how the public will respond. We could do police work morally, ethically and fairly with proper supervision and discipline.

Not only do LAPD officers distrust upper management, but many of them also lack confidence in the Department's supervisors (sergeants) and especially those they consider "middle managers" (lieutenants and captains). There is a widespread perception by officers that too many middle managers have been promoted too fast, are ill-trained for the job, are primarily

⁸¹ Many officers focus their anger on Chief Parks. Our survey did not ask officers for their opinion about Chief Parks, but did include an open-ended question regarding the best way “to improve morale at LAPD.” The most frequent response to this inquiry called for removing Chief Parks.

concerned with their next promotion, and do not know how to lead. The following survey responses are typical: "[M]anagement has no practical field experience." "Management hasn't a clue how police work is/needs to be done because a majority of the Department managers have spent 3 years or less actually working the streets." "Management/supervision does not know or remember what it's like to be in the field" "Many current supervisors do not know the job of line/field officers and cannot give advice [on] something they do not know. Supervisors promote without learning what field officers do on a day to day basis." Officers also complain that middle managers too often relay bad news to upper management, hand down policies from upper management without critical assessment or comment, and avoid taking action for fear of jeopardizing their next promotion.

For their part, the sergeants, lieutenants and captains we interviewed, most of whom have 20 or more years of experience with the Department, believe that their own morale and effectiveness have been undermined by excessive paperwork and micromanagement from above. Many supervisors and middle managers, along with many line officers, complain that the Department is too numbers-driven: that work that can be quantified dominates Department priorities, while work that cannot be quantified is neglected. We heard time and again that supervisors and middle managers spend far too much time processing and investigating public complaints and compiling statistical data for weekly reports to senior management, to the point where they have little or no time to supervise and train. Beyond this, we were told that a system has developed in which officers have very little discretion to resolve issues or take the initiative without first clearing it with management.⁸²

It is not uncommon for police officers to be distrustful of management. But the level of distrust and resentment we found at LAPD is extraordinary, and we believe it has greatly undermined effective policing in Los Angeles. Officers who feel they do not have a stake in decisions made by the Department, who feel they are adversaries of management, and who feel alienated from their jobs are less likely to promptly and effectively implement changes directed by management. Moreover, for LAPD to restore its credibility with the public, management and

⁸² The desired effect of flattening the Department's organization to support local exercise of discretion and decision-making appears not to be realized in light of these statements regarding micromanagement.

officers must work together and be perceived as working together. That is not currently the state of affairs.

One sign of the deep disaffection among LAPD officers is the bitterness with which the Los Angeles Police Protective League (LAPPL) regularly attacks Department management. For example, recent issues of the League's newspaper charge that management has created a "culture of mediocrity," "treats officers worse than you allow them to treat suspects," lives by a "double standard," "disregards" the interests of rank-and-file officers, and may "sacrifice" officers to federal investigators. The paper describes the current disciplinary system as "scorched earth . . . Take no prisoners. . . Show no compassion. . . Blame the little guy." A recent article about LAPD management and the Rampart scandal was entitled "Shoot the Generals." Boards of Rights hearings regarding Rampart are referred to as "the slaughterhouse."

For its part, the Department dismisses virtually every proposal or statement by the League, without regard to the merits, as nothing but the tactics of self-interested union officials. Labor-management relations are often characterized by contentiousness and rough play, but the level of distrust, antipathy, and outright animosity between the League and the Department is truly startling. In our interviews, some members of the command staff told us they believe that the League intentionally foments discontent. But however the blame is allocated, the extent of the League's hostility toward Department management – and vice versa – is cause for serious concern, and further evidence of a breakdown in trust between LAPD officers and the command staff.⁸³

We also believe that officers' perceptions that they are distrusted by management can foster, rather than prevent, unethical and improper police conduct. Officers who feel they will be punished for unintentional mistakes are far more likely not to report mistakes truthfully to their supervisors. Worse, the fear of punishment for honest mistakes, and the belief that the Department will not fairly support officers, increases the likelihood that innocent mistakes will be covered up through intentional misconduct. And officers will be less likely to report misconduct by others if they do not trust that management will respond appropriately.

⁸³ One telling sign of this breakdown, and of the damage it can cause, was the job fair the League recently hosted at the Academy, at which *other* police agencies were invited to recruit LAPD officers.

Our survey of LAPD officers and our interviews with randomly selected officers provided little direct evidence of a strong "code of silence" within the Department. Survey respondents strongly disagreed with the statement: "A 'code of silence' exists among senior officers of the Department," and they disagreed with other statements suggesting that a code of silence prohibits reporting of misconduct. Nevertheless, approximately one-third of the survey respondents said that they are aware of inappropriate behavior by other officers. Officers reported they do not fear retaliation from fellow officers for reporting criminal conduct or refusing to participate in misconduct. The officers we interviewed told us they would not be willing to risk their own jobs to protect an officer who engages in serious wrongdoing – although most said they never encounter such conduct.

We nonetheless believe that sensible reform of the LAPD must proceed on the assumption that Los Angeles police officers, like officers elsewhere, often fail to report serious misconduct by fellow officers. This plainly happened at Rampart. We also note that a group of officers recently have filed a class action lawsuit against the Department, alleging that the Department condones retaliation against officers who report misconduct by other officers. Chief Parks said that a reluctance to report misconduct "exists among human beings" and is not uncommon in any profession. One sergeant who investigates personnel complaints told us that multiple reports from officers supporting an accused officer are usually discounted, because it is assumed that the officers will all stick up for each other. And more than 70% of the officers responding to our survey said they would use an anonymous "hotline" for reporting misconduct – implicitly acknowledging the difficulties currently associated with reporting misconduct by fellow officers.

find notes

2. Officers overwhelmingly resent and lack confidence in the Department's disciplinary system, and their resentment and lack of confidence are undermining effective and ethical law enforcement.

Perhaps the single greatest source of officers' anger and discontent is the current disciplinary system, known as the 1.28 system. The 1.28 system was implemented in response to the Christopher Commission's recommendation against informal disposition of some public complaints. Under the 1.28 system, all complaints from members of the community must be recorded and investigated. The Department has no discretion to disregard a complaint on the ground that it is trivial or lacks credibility.

Our interviews of officers and our survey revealed a consistent set of perceptions about the 1.28 system. Officers overwhelmingly believe the system is unfair. In interviews, officers told us they believe that merely being the subject of public complaints will undermine their chances for promotion, even if the complaints are trivial, unfounded or not resolved. Officers also believe that any contact with a member of the community, no matter how routine, can generate a complaint and a lengthy investigation. Moreover, officers believe that many complaints come in an organized manner from gang members who, knowledgeable about the 1.28 system, set out to punish and deter an officer they may view as aggressive or effective. The perception that some community members file complaints in an organized and systematic way, to punish and discourage particular officers, is shared by captains and other supervisors in the field.

Officers do not believe that complaints are fairly and appropriately handled by the Department. Officers strongly believe that they are "presumed guilty." Moreover, they perceive a "double standard" in punishments imposed. Interviews and survey results reveal a widely-held view that the command staff receives more lenient punishment for the same offenses that would result in harsh punishment for patrol officers.

Officers further believe that the 1.28 system undermines law enforcement, because it discourages officers from addressing problems and responding to crimes they may observe on the street. Fearing that any interaction with a member of the public may generate a complaint, officers say they are reluctant to initiate contact, even when they see what they believe to be criminal activity. Indeed, many officers say they will act only in response to radio calls to avoid having to justify why they approached an individual. Absent a radio call, we have been told repeatedly, officers often choose to "smile and wave." These observations are reinforced by the fact that in calendar year 2000, a year in which crime rates are rising, there has been a significant decrease in arrests, citations, and officer-initiated activities.

Failing to address observed criminal activity, of course, is improper conduct by a police officer. Nonetheless, in written comments in response to our survey, a number of officers admit that they no longer do "observational" or "proactive" policing. Even more confirm that it has become a common belief that the way to stay out of trouble and to increase one's chances for promotion is to respond to radio calls, and to do no more than is absolutely necessary. Written comments in response to our survey included the following: "The way I see it, a field officer is

crazy to go out and do proactive police work." "I am afraid to get involved in anything due to the complaint system. I just do the minimum for self-preservation." "I try not to do one proactive thing while on patrol (arrests and tickets) just so I can stay out of trouble." "I know the less contact I have with criminals, the better chance I have of keeping my employee package clean. It's not fair to the public I protect, but I also have a family to feed."

Officers also believe that the disciplinary system requires inordinate amounts of time from already scarce resources. At each community police station we visited, we were told that sergeants who should be spending their time supervising officers and handling day-to-day issues in the field instead were largely devoted to investigating 1.28 complaints. We have been told by community members that sergeants may be the most important officers in the Area: usually, they are in touch with the community, they are experienced, and they bring a "cooler head" to potentially problematic encounters between police officers and the public. Yet, officers believe, too many sergeants spend too much of their time investigating complaints.

Restoring the officers' confidence in management and the disciplinary system would remove a strong disincentive to reporting misconduct. Officers who believe that management will investigate and adjudicate allegations of misconduct fairly and appropriately will be more likely to report misconduct that occurs.

3. The Department has failed to treat the communities it serves as full partners in its mission, and this failure has significantly impeded effective and ethical law enforcement.

The LAPD is no stranger to the concept of community policing. As noted in the 1991 Christopher Commission Report, community relations officers, the "Basic Car Plan," team policing, and even the position of Senior Lead Officer (SLO) were created by LAPD in the 1960's and 1970's to help develop closer ties to the community and respond to community concerns. In the years following the Christopher Commission Report, the Department adopted several new initiatives aimed at bolstering its ties with the community, including mentoring and educational programs, cable television outreach, bicycle patrols, and community outreach centers.⁸⁴

⁸⁴ Los Angeles Board of Police Commissioners, In The Course Of Change: The LAPD Five Years After The Christopher Commission at 14-15 (1996) (hereinafter LAPD Five Years After Report)

As the Christopher Commission warned, however, true "community policing" requires more than new programs:

It requires the most fundamental change of values within the LAPD. The Department must recognize the merits of community involvement in matters that affect local neighborhoods, develop programs to gain an adequate understanding of what is important to particular communities, and learn to manage department affairs in ways that are consistent with the community views expressed.⁸⁵

This change of values has not occurred. Neither line officers nor LAPD management appear committed to treating the communities the Department serves as full partners in its mission.

Support for community policing by line officers has been limited. Our survey reveals that almost a third of the responding officers think the program should be "reduced" or "eliminated." Many officers appear to view community policing as something other than "real police work." There is still a strong commitment in the Department rank-and-file to the traditional "professional" policing model that the LAPD has espoused in the past. Many of the two-thirds of officers who say community policing should be maintained or expanded believe that community policing is not part of *their* jobs. For example, there is support among LAPD officers for restoring the Senior Lead Officer (SLO) program.⁸⁶ But many officers who voice this opinion appear motivated by a desire to avoid community policing duties themselves. In the words of one respondent: "The community policing program should be given back to and headed by the Senior Lead Officers. The remaining officers can then focus their attention on calls for service and proactive police work."

The soft support for community policing among LAPD officers reflects – and, we believe, is partly fostered by – the continued failure by the Department's management to treat the communities it polices as full partners in its mission. As practiced by LAPD, community policing has too often been what line officers told us again and again that they disdain: an exercise in public relations. The communication has flowed one way, from the Department to

⁸⁵ Christopher Comm. Report, at 106 (1991).

⁸⁶ Of the more than 1,200 individual written comments we received on the question of whether the LAPD should expand, maintain or reduce the level of its community policing programs, about 20% can be fairly interpreted to say "bring back the SLOs."

the community. What has been lacking has been efforts to make the LAPD truly responsive to, and cooperative with, the communities that it serves.⁸⁷

The LAPD's failure to treat communities as full partners in law enforcement is related to its failure to treat its officers as partners. The Christopher Commission concluded that for community policing to work, the Department must "decentralize managerial control and provide officers greater autonomy to approach and solve the underlying causes of crime and other neighborhood problems."⁸⁸ But we found little evidence that in the years since the Christopher Commission Report the LAPD has decentralized the managerial control of its community policing program. Indeed, our review of community policing plans and models in other large communities reveals a greater degree of community organization and structure than what we have seen in Los Angeles. Los Angeles is diverse; perhaps more diverse than any other large city in the nation. Plans that work in one area may very well not work in another; individual officers and citizens need to discuss and develop plans that will work for them in their neighborhoods.

The Department's failure to act in partnership with the public is well illustrated by its recent handling of two issues: the redeployment of SLOs to patrol cars, and the controversy surrounding racial profiling.

The redeployment of Senior Lead Officers. In the course of our investigation, one issue has consistently overwhelmed consideration of virtually every other aspect of community policing. That issue is the redeployment of the SLOs to the Basic Cars as implemented by Chief Parks' Administrative Order No. 3, dated February 10, 1999. In certain respects it is surprising that this one modification of the duties of 168 SLOs could have had such a dramatic impact on the perceptions people have of community policing in Los Angeles. Upon reflection, however, it is apparent that no single action could have more profoundly affected the elemental one-on-one relationship of trust between police officers and public that is so critical to any community policing model.

⁸⁷ We note that the Police Commission's 1996 report on implementation of the Christopher Commission recommendations, *supra* note 84, contains no community assessments of LAPD initiatives.

⁸⁸ Christopher Comm. Report, at 101.

The Strategic Plan explains the rationale for redeploying the SLOs to the Basic Cars: "Prior to the implementation of the Ideal Basic Car, SLOs were the only officers who attended Neighborhood Watch meetings, which effectively limited the point of communication between the community and the Department to 168 officers."⁸⁹ If the goal of community policing is to make every officer responsible for community relations, putting the SLOs back in the patrol cars makes some sense. Otherwise, the Department runs the risk of creating an "elite" force of community relations specialists, while the rest of the Department may never get significantly involved in interacting with the community.

Unfortunately, the redeployment of the SLOs has failed in practice. When a SLO participates as one of nine members of a Basic Car, he or she is expected to perform three functions: patrol, community policing and training. As a patrol officer, the SLO must respond to radio calls, sometimes out of the Basic Car's area, to handle emergencies or calls for assistance. This process of "chasing the radio" has priority over non-emergency issues with the public. Community issues are relegated to whatever available time a SLO has, which in practice is often very little. The same is true for other officers in the Basic Car. Consequently, some officers have characterized community policing work as "an overtime job."⁹⁰

In addition, officers and citizens repeatedly told us that officers frequently "rotate" out of patrol at the earliest opportunity, either by promotion or transfer, and new officers who are often unfamiliar with the community must take their places. In part, this is due to a widespread perception among officers that patrol work is not valued and is not an avenue for promotion. As a result, community members complain throughout the City that they rarely see the same officer twice in relation to any particular problem, and that they must constantly educate new officers regarding matters that were well known to their predecessors. This is a tiresome and demoralizing routine that undermines the success of community policing.

Based on our conversations with both officers and community members, we conclude that the fundamental one-on-one relationship between police officer and community member is simply not being fostered under the Ideal Basic Car Plan as presently implemented. Attendance

⁸⁹ 1999 Strategic Plan on Community Policing (Oct. 27, 1999), at 16, 22.

⁹⁰ Chief Parks told us that the problem is not insufficient available time, but lack of skill in using it. If so, the Department has failed to teach its officers how to find time for community policing.

at Neighborhood Watch meetings is down, graffiti is increasing and fear of crime is again on the rise. Prior to their redeployment to the Basic Cars, SLOs were key components of community policing: identifiable police officers to whom people could turn to address their problems. The SLOs were responsible for dealing with the problems and they were accountable for the results. That accountability has been lost under the Ideal Basic Car Plan as currently implemented.

In redeploying SLOs into Basic Cars, the Department ignored the most basic tenet of community policing: the Department must work in partnership with the community. We have seen no evidence that the Department approached members of the community to discuss its intended redeployment of the SLOs prior to the publication of the February 10, 1999, Order. The reaction of many community members involved in Neighborhood Watches and the Community-Police Advisory Boards was swift and negative. Even a cursory review of the many letters from community members citing the personal and very positive experiences each has had with their SLOs convinces us that these officers provided a key component to the community policing relationship.

If the negative reaction of so many members of the public to the redeployment of the SLOs caught LAPD management by surprise, the Department is seriously out of touch with the public. If LAPD management fully expected the swift and negative reaction to its plan, but implemented it anyway without consulting its public constituents, it demonstrates an arrogance that casts serious doubt on its claim that it has undergone a cultural change in its community policing philosophy.

Racial profiling. The term "racial profiling" sometimes refers to routine reliance on race or ethnicity as *part* of the basis for selecting individuals for investigatory stops, and sometimes to reliance on race or ethnicity as the *primary* basis for a stop or detention by a police officer. Allegations of racial profiling have caused controversy not only in Los Angeles but throughout the nation.

The officers we interviewed deny stopping people primarily because of their race, and insist that when they do take race into account, they do so appropriately, exercising good judgment to spot a person who fits the description of a criminal suspect or who "doesn't belong." But what some officers see as appropriate judgment, many members of the community deem illegal and unacceptable discrimination. In particular, relying on race or ethnicity to determine whether a person "belongs" is something many people find improper, insulting and demeaning –

even when race or ethnicity is used in conjunction with other factors, and even if the officer behaves cordially. In our interviews with community leaders and in our focus groups, moreover, we heard many accounts of officers stopping African-Americans and Latinos for what appeared to be *no* reason other than race, and many accounts of officers behaving rudely during those stops.

It is difficult to overstate the degree to which such grievances undermine the trust placed in the police by minority communities, and, in turn, the degree of cooperation the police can expect from those communities. Any serious effort at community policing must take these grievances seriously. One first step toward taking them seriously is to assess the degree to which minority citizens are stopped disproportionately by the LAPD, and the extent to which officers make stops for improper reasons – assessments that cannot be made with existing data.⁹¹ Quantifying the problem will not solve it, nor will it even create automatic consensus on the degree to which it *is* a problem. But it is a crucial beginning.⁹²

Recognizing that a credible response to complaints of racial profiling must start with good faith efforts to determine the extent of the problem, many police departments throughout California and the nation have voluntarily begun to keep records of the race and ethnicity of at least some categories of individuals stopped by the police, as well as the grounds for the stop and whether it led to a search or arrest. Until recently the LAPD refused to join these departments. (The agreed-upon Consent Decree with the United States Department of Justice requires data

⁹¹ We note that there is an apparent inconsistency between the officers' oft-repeated statements that they are now reluctant to engage in observational police work, as discussed above, and the beliefs of some community members that overly-aggressive officers are stopping people based on race.

⁹² Our interviews also suggested that LAPD officers may need better training regarding the legal standard of "reasonable suspicion" and the extreme resentment that can be caused by racial profiling. Last June a respected, 26-year LAPD officer explained to a Los Angeles Times reporter why he stopped a car in a neighborhood near USC: "I see young blacks in a BMW with a ski rack in a Hispanic neighborhood. The LAPD takes the little bitty things and uses them. Adds them up. I'm a product of LAPD. I see it as maybe a stolen car. I look at it as good police work." *Behind the Bunker Mentality*, Los Angeles Times, June 11, 2000, at A1. A high ranking member of the LAPD told the Panel he agreed that facts identified by the officer – "young blacks in a BMW with a ski rack in a Hispanic neighborhood," and a records check indicating the owner of the car had a Spanish surname – constituted "reasonable suspicion" sufficient to warrant an investigative stop.

collection.) Nor had it taken any other steps to demonstrate that it takes seriously the repeated complaints by minority community members that the LAPD singles them out for suspicion and harassment based on their race.

There are legitimate differences of opinion between LAPD officers and many members of the public about what constitutes appropriate "police judgment." No police department can please everyone, and community policing does not require that departments try to please everyone. What community policing *does* require is that police treat the community as a partner in law enforcement, and that includes taking seriously complaints – like those of racial profiling – that are widespread, persistent, and deeply felt. The LAPD's failure of leadership on the issue of racial profiling is thus another illustration of its continued lack of commitment to true community policing.

4. The Department has failed to treat its civilian employees as full partners in its mission, and this failure seriously threatens the quality of policing in Los Angeles.

Over the past several decades the LAPD, like other police departments throughout the nation, has increasingly hired civilians to perform selected jobs previously carried out by sworn officers. The "civilianization" of the LAPD started with a handful of positions in the late 1960's and early 1970's and has expanded to more than 3,500 positions today. Initially, the civilian positions were limited to relatively low-level, clerical jobs, such as clerk typist positions. Today, civilian positions range from Watch Commanders in Records and Identification Division, to the criminalists in the Scientific Investigation Division, to the police service representatives in Communications Division, to the detention officers in Jail Division, to the adjutants for commanding officers at Area stations. The jobs held by civilians are often discussed in two broad categories: those that were created for civilians, *i.e.*, clerical and administrative type jobs, and those that were held by sworn officers at one time. The positions that comprise this latter group are often referred to as "civilianized" positions. According to Department records, between 1994 and 2000 approximately 630 sworn positions were converted to civilian jobs.⁹³

⁹³ The analysis that follows focuses principally on civilians now occupying positions formerly held by sworn officers. However, because many of the issues facing employees in civilianized positions are similar to and overlap with issues facing civilians in the Department more generally, this analysis is relevant to this broader group as well.

The goal of civilianization is straightforward: to increase the number of able-bodied sworn officers on the streets of Los Angeles in a cost-effective and efficient manner. To a great extent the process has succeeded. Jobs previously performed by sworn officers but not needing their certified law enforcement skills are now performed by civilians who are paid less, in some cases substantially less, than the sworn officers; and, conversely, sworn officers who would otherwise be stationed in Parker Center, on administrative jobs in the Area community police stations, or the jails performing duties that do not require an officer are instead out in the field.

Unfortunately, civilianization has also resulted in what civilian employees perceive to be a two-class system: including one “higher” class of sworn officers and a second “lower” class of “mere civilians,” who are referred to officially as “non-sworn employees.” This stratification of the LAPD, and the attendant morale and retention problems, present a substantial threat to the success of civilianization in the long term and, therefore, to the quality of policing in the community.

There is no question that civilian LAPD employees perceive a sense of “us versus them” within the department. Many civilian employees told us that sworn officers act as though there are two types of people who work in the department: those who are *part of* the LAPD and those who *work for* the LAPD. Though felt to different degrees depending upon division and position, virtually every civilian employee we interviewed on this topic (and a few of the sworn officers as well) believes that sworn officers often show a lack of respect for the civilians, undervalue their contribution, and generally treat civilians like second-class citizens.

Civilians in relatively low-level positions repeatedly told us that sworn officers are frequently angry and verbally abusive toward them. Sworn officers, the civilians say, are quick to accuse civilians of following incorrect procedures, regardless of whether they are dealing with an employee who has been working with LAPD for years. For example, non-sworn employees in the Property and Jail Divisions report that sworn officers will hand them incorrect or incomplete paperwork despite repeated requests for thoroughness, and then react angrily when the civilians point out errors. Similar occurrences have been reported in connection with radio and telephone interactions between sworn officers and civilian employees in the Communications Division and Records and Identification Division.

Lower-level civilians also note that they feel powerless to complain formally about the mistreatment because, when complaints are filed by a non-sworn employee against a sworn

officer, the civilian believes the sworn officer often will lie, sometimes creating false charges against the civilian to effect a “settlement.” Moreover, civilians perceive that sworn officers will often persuade other officers to cover for them and that, when there is the need for a credibility determination, the sworn officer prevails.

The frustration and discontent felt by the civilians is often compounded where those civilians are supervised by sworn officers. Non-sworn employees told us that the sworn officers who supervise them – *e.g.*, the Sergeant IIs in Communications Division who supervise the Police Service Representatives (PSRs) and the sergeants in Jail Division who supervise the Detention Officers – often lack both knowledge of the Division and a commitment to making the Division work well. Because sworn officers are moved around the Department as they receive and await promotions, they often have little opportunity to learn about a particular Division and little incentive to become personally invested.⁹⁴

Disrespect by sworn officers is not the only cause of discontent among civilian employees. Many of the jobs performed by LAPD civilians are very demanding, both physically and mentally, particularly when compared with positions in other Los Angeles City departments. Most LAPD operations and support Divisions are operational 24 hours a day, seven days a week, and some of the work is performed under emergency conditions. Many civilian employees of the Department, including 911 operators and detention officers, face a tremendous amount of stress when performing their duties. Due to the sheer volume of work, even the employees in the Records and Identification Division, a Division that involves primarily data entry and retrieval, deal with the greater demands for urgent action than do their counterparts in other City departments.

In addition, LAPD civilians are subject to harsher discipline than are their counterparts in other City departments. All LAPD employees, sworn and non-sworn alike, are held to the same

⁹⁴ The situation is particularly tense in the Communications Division, where Chief Parks has mandated that, for every watch, the Watch Commander must be a sworn officer. Prior to this, the Senior PSRs II in the Division, who are civilian employees, were performing the Watch Commander function. This new rule has been particularly difficult for these civilian supervisors to countenance, in part because it was announced without any articulation of its necessity, and in part because they believe that the sworn officers placed in this role, the Sergeant II's, have an incomplete understanding of the processes and procedures in the Division and are hence heavily dependent on the civilian Sr. PSRs II in order to function.

standards of conduct and are subject to the same disciplinary procedures for acts of misconduct, though sworn officers enjoy a one-year statute of limitations on disciplinary actions not applicable to civilian employees. For example, a civilian employed by the LAPD faces the possibility of suspension without pay or termination for driving under the influence while off duty, whereas a civilian employed by the Department of Water and Power typically does not.

Nonetheless non-sworn employees of the LAPD are paid the same as employees of other City departments. LAPD civilians see this as inequitable, because they undergo a background investigation, endure poor treatment by the sworn officers, experience greater levels of stress, are subject to harsher disciplinary rules, and may be required to work evening and weekend shifts. In Records and Identification Division, the Division that has the greatest number of civilians with readily transferable skill sets, nearly half of the employees hired leave for other City departments. Those Divisions with employees who have less readily transferable skills, *e.g.*, Communications and Jail Divisions – and hence traditionally greater retention – are now experiencing high rates of attrition as more and more civilians take the civil service exams to become eligible for positions in other City departments.

Civilian retention in the LAPD is also low because upward mobility within the Department is limited. Civilians in low and high level positions alike are concerned about the relatively limited opportunities for advancement. This problem is particularly acute in the Communications, Property and Jail Divisions, where there are only three opportunities for advancement – PSR, Senior PSR I and Senior PSR II; Property Officer, Senior Property Officer, and Principal Property Officer; and Detention Officer, Senior Detention Officer, and Principal Detention Officer, respectively. Moreover, in each Division, the number of available positions drop off precipitously from the first level to the second to the third, leaving little real chance that a given entry level employee will actually reach the third tier.

As a result of all these factors, the number of vacant civilian positions throughout the Department is excessive by any measure. Of 500 PSR positions, only 390 are filled as of this writing. Similarly in the jails, shifts previously staffed by 20 Detention Officers are now covered by nine. In Records and Identification, of 291 authorized civilian positions, 46 positions are vacant. Even Property Division is operating at close to the bare minimum, with 12 Property Officer and other positions vacant. To many, the problem is at near-crisis proportions, particularly in the Communications and Jail Divisions, two areas that directly affect the efficacy

and performance of the sworn police force. Unless the problems are remedied, the ability of the LAPD to perform vital services could be seriously impaired.

The Department has been unsuccessful in filling its civilian vacancies for many of the same reasons that the vacancies were created – the jobs are less desirable as compared to other City positions and the private sector due to the low pay, high stress, susceptibility to evening, overnight, or weekend work, and limited upward mobility. Many high level employees (civilian and sworn) also blame the hiring process. They say the City administers the civil service exams too infrequently; the Personnel Department processes applications inefficiently (perhaps because it too is grossly understaffed); and the LAPD background check takes far too long, causing qualified applicants to wait up to six weeks to begin working, even though they can start working immediately for another City department.

As job vacancies have risen and additional burdens have fallen on the employees who remain, morale among the LAPD's civilian employees has further declined. Although individuals in staff level civilian positions do not perceive that the morale is terribly low, those in the trenches, *i.e.*, in lower level positions, report that civilian morale is the lowest it has been in the last 15-20 years.

Although many civilians report that the pride they feel in working for the LAPD helps to counter the effect of working under greater stress than other City departments, increased pay, renovation of working conditions, and improved upward mobility may prove essential to filling the large number of vacant civilian LAPD positions. In addition, efforts are plainly needed to facilitate a partnership mentality between sworn and civilian personnel. In the absence of change, although the sheer number of civilian employees will increase – as will the number of sworn officers returned to the streets – the instances of poor interaction and high tension between sworn and civilian personnel will surely increase as well, with an overall negative effect on police service for the community.

5. Ethics training in the LAPD remains limited, haphazard, and only marginally effective.

As a formal matter, the LAPD has made clear its standards of ethical conduct. In its Mission Statement, Core Values and Management Principles, all of which are set forth in the LAPD Manual and are posted at many locations, the Department has articulated the standards of ethical conduct expected of both sworn and civilian employees. The Law Enforcement Code of

Ethics has been distributed to all recruits for decades, and it is expressly incorporated into the LAPD Manual. The Manual also contains numerous provisions dealing with conflicts of interest, non-discrimination, community relations and other matters that directly or indirectly set standards for ethical performance. The canons of ethics embodied in the Code of Professional Conduct and Responsibility for Peace Officers are also distributed to all officers. Most officers believe that the Department has clearly communicated its expectation of ethical performance; as one officer stated: "The Department's views on integrity are crystal clear."

The Department has been less successful, however, in training officers how to apply ethical standards in real-life situations. While the ethics training program at the LAPD is comparable to programs offered by other large departments, and is more comprehensive than some, it remains inadequate. Since the mid-1980's, the LAPD began using POST-approved lesson plans for recruit training. Of the 40 "learning domains" into which POST training is divided, only the first deals expressly with ethics. POST materials were presented in lecture format until 1999, when they were supplemented by workbook materials that can be used to generate classroom discussion of pertinent issues, and by other handouts selected by the staff of Training Division. (At the present time those materials include the various codes of professional responsibility, as well as excerpts from Rafael Perez's statement to the court, and the April 2000 press release regarding the indictment of a current and a former officer on civil rights charges.)

Currently, of the 1,064 hours of recruit training, no more than eight hours are expressly devoted to ethics. Recruits are addressed periodically by command and staff officers on the importance of the rules, values and principles of the LAPD. Recruits also are required to sign a copy of the Law Enforcement Code of Ethics, and to swear to uphold it.

After Academy training, nearly all of the structured training in ethics is offered to supervisors in conjunction with promotional schools and other limited-enrollment programs. Since 1996, the Department has offered the West Point Leadership Program on a voluntary basis, twice a year, to a limited number of sworn and civilian personnel. This course includes a component on the Ethical Dimensions of Leadership. Beginning in 1988, a class entitled "Principles, Values and Ethics" was presented at selected promotional schools. Since 1997,

training courses in various aspects of ethical decision-making have been prepared for Field Training Officer School and specific supervisory schools.⁹⁵

But outside of these offerings, there appears to be no structured, in-service ethics training for patrol officers. While ethics issues may be addressed as part of roll-call training, there is no coordinated and monitored program for doing so. The presentation of any such training largely is left to the discretion of Area and Division commanding officers.

Even the training programs that are offered to select officers are not standardized or coordinated. They do not have a unifying theme or a clear conception of the ultimate goal of ethics training. As one sergeant commented, ethics training has been largely “for purposes of appeasement.”

Virtually all officers we interviewed, and a vast majority of those responding to the survey, said that they did not believe additional ethics training would be useful. But this does not mean that they believe the ethics training they have received was helpful or sufficient. Instead, there is a general belief among officers that ethics training is not necessary at all, because ethics cannot be taught. This belief is expressed in different ways: “You’re either righteous or you’re not;” “You come to the job with ethics;” “If you need ethics training, you shouldn’t be here;” “Ethics are inside you. If you don’t have ethics before you came on the job, you won’t get it on the job. Training will work only if officers want it to work;” “One either has good ethics or poor ethics. It is not learned;” “You can’t teach ethics!” Officers responding to our survey strongly disagreed that increased ethics training would have assisted in preventing the misconduct alleged at Rampart.

These sentiments betray a belief that the purpose of ethics training is simply to instill a code of moral conduct. Most officers believe they already have such a code. Indeed, the survey statement that received the strongest level of agreement was: “Most sworn officers have a great deal of integrity and honesty.” Not surprisingly, officers see no purpose in ethics training, and ethics training inspires little interest. Both Captain McDonnell, former Commanding Officer, Continuing Education Division, and Dr. Greene, Director of Police Training and Education, observed that officers generally like courses on tactics and enforcement, but are only “mildly

⁹⁵ For a chart summarizing these courses, see Board of Inquiry Report, at 306.

interested” in ethics. As one officer told us, “Ethics classes are a good source of relaxation and sleep.”

We believe that officers do not see a benefit to ethics training because they do not recognize that ethics training has any practical application. The ethics training they have received from LAPD has not successfully taught them how to apply standards of ethics to their daily job experiences. Little or no effort has been made to provide ethics training in a coordinated and comprehensive way, or to create a training program around a clear, unifying theme.

Although the position of Director of Police Training and Education (DPTE) was created in the aftermath of the Christopher Commission report to, in part, evaluate training programs, the effectiveness of the Department’s training programs has never been formally evaluated. The DPTE position was left vacant for several years, and the current DPTE operates without a staff. Her limited resources have been devoted largely to program development, not evaluation.

Nor has a sufficient effort been made to design ethics training programs that resonate with officers. Most ethics courses have been taught as stand-alone lectures, isolated from training in the substantive tactical issues that confront officers on the job. Officers are generally passive recipients of information, rather than active participants in resolving issues that present ethical challenges. This mode of presentation does not involve officers in the process of ethical decision-making, and does not promote the development of that skill. Instead of highlighting the relevance of ethical issues to an officer’s daily experience, passive lecture courses can obscure it. Most officers will find information presented in this way difficult to translate into practical use. As Dr. Greene, stated, “Officers should be as experienced and comfortable working through an ethical problem as they are in cleaning their weapons.” Existing ethics training does not provide that level of comfort.

Ethics training also cannot be limited to the classroom, where it can so easily become marginalized and irrelevant. Currently, LAPD has no coordinated program for incorporating ethical issues into the day-to-day training in the field provided to probationary officers by Field Training Officers (FTOs). Many officers say that their FTO is the most important person they learn from in their early career. The survey reveals, however, that while officers agree ethics and integrity training by FTOs was “thoroughly covered,” they disagree that such training greatly influences how officers deal with ethics and integrity issues on the job. FTOs, then, must not

only be firmly grounded in ethical decision-making, but must also be trained to demonstrate to newer officers just how such skills can be utilized on the job, and why they must be.

In addition, ethics issues should be incorporated on a regular and systematic basis into roll call training where, through repetition and reinforcement, standards of ethical behavior can be clarified and practical application of those standards can be demonstrated. Although attendance at roll-call training is mandatory, presentations at roll call vary in effectiveness, and their effectiveness is unmeasured. Therefore, LAPD should consider alternative training methods, such as the development of programs for distribution over the Local Area Network or CD-ROM to computers accessible by officers where and when convenient.

We also believe that ethics training must be part of a larger program of improved training, the goal of which should be to give officers the tools to avoid ethical dilemmas in the first place. Improved training in areas of “core competencies,” such as search and seizure and standards for detention versus arrest, would reduce the incidence of mistakes borne of ignorance; efforts to avoid the consequences of such mistakes can lead to ethical violations of far greater severity.

Some progress toward achieving these goals may be under way. The Training Group is developing an updated in-service training program involving critical decision-making exercises that integrate ethics, community policing and problem solving, diversity issues, use of force, firearms use and self-defense. At least in concept, ethical decision-making issues will be embedded in all aspects of this program. We believe that this can be a step in the right direction, provided that, as envisioned, attendance is required of all officers every two years.

There is, of course, another reason to offer coordinated, relevant ethics training: Doing so reinforces the message that ethical performance is a central value at the LAPD. Ethics training that stops at the Academy, or is isolated to a few hours of in-service training at promotional schools or POST-mandated continuing education, sends an implicit message that ethics training is not important to the job. A coordinated, comprehensive and relevant training program not only teaches ethics in a more effective way, but also demonstrates the importance of ethical behavior at LAPD.

Conveying the message that ethical behavior is among the most important attributes of a good police officer should not stop with ethics training. Like other important performance markers, ethical behavior should be one of the criteria on which officers are evaluated. The

Department must reward ethical behavior, and not merely punish unethical behavior, to help send the message to officers that ethical conduct is highly valued. Ultimately, ethics training will not be wholly effective until officers perceive ethical conduct to be important to their success as police officers.

Recommendations

2.1. LAPD management should be open to and responsive to concerns of officers, and must address the problem of officer morale.

In particular, management can no longer succeed by merely dictating policy and demanding blind adherence to it. Management must build consensus for its policies among officers.

2.2. LAPD and the Los Angeles Police Protective League should work to develop a cooperative relationship, that recognizes their joint interest in the success of the Department and the well-being of its officers.

2.3. Reform of the 1.28 system should take into account officer concerns.

2.4. Mechanisms and procedures should be established to permit officers to report misconduct anonymously.

2.5. The Department should restore and enhance the Senior Lead Officer Program to full-time community policing.

Phase II probationary officers and other officers should be assigned to work with the SLOs as a further in-service training method so that officers skilled in community problem-solving are not limited to the SLOs.

2.6. The Department should institute regular, periodic meetings with the Community.

These meetings should include the Chief of Police and representatives from a given Area's chain of command, including SLOs and patrol officers. Selected leaders from C-PABs, Neighborhood Watch, and other community and business groups should also attend. The SLOs and community members should have primary responsibility in setting the agendas for these meetings to focus on procedures and problem solving in that Area. The purpose of these meetings would be to provide upper management first-hand input from community members, SLOs and other patrol officers regarding the community policing issues they find in their

particular Area. Ideas, opinions, suggestions and plans can flow upward to management for consideration and implementation ideas can flow back down to the community.

- 2.7. The Department should formalize more training at the Academy level in community policing techniques and philosophy.**
- 2.8. LAPD should improve the working conditions and expand career paths of civilian employees to facilitate filling vacant positions and retaining experienced employees.**
- 2.9. All sworn officers should be clearly informed of the contributions of civilian employees and be held accountable for treating all Department employees with civility and respect.**
- 2.10. Recommendations 82-87 in the Board of Inquiry Report, concerning ethics and integrity training programs, are appropriate and should be implemented.**
- 2.11. Ethics training should be developed as a coordinated program and presented regularly throughout each officer's career.**

It should not be confined to Academy and promotional schools, but should be integrated in all aspects of Department training, including roll-call training, commanding officer presentations, and other in-service training.

- 2.12. Ethics training should be presented in a way that is relevant to officers' daily job experiences.**

Problems involving ethical decision-making should be incorporated into other substantive areas of training, including firearms use, use of force, self-defense, community policing, and other tactical and enforcement subject areas. Officers must be trained to recognize the ethical implications of the situations they confront and to resolve those issues quickly, methodically and appropriately. FTOs, in particular, should be trained in these areas and instructed on how to demonstrate such skills to probationers and to evaluate these new officers on ethical decision-making.

- 2.13. The effectiveness of the Department's ethics training should be evaluated on a regular basis by the Director of Police Training and Education, who should be given sufficient staff to perform this function.**
- 2.14. Ethical performance should be positively reinforced. It should be incorporated as a criterion for annual performance evaluations.**

CHAPTER 3

COMMUNITY OUTREACH AND RELATIONS

Introduction and Summary

Members of the Rampart Independent Review Panel met with diverse community representatives to learn about the overall impressions of Los Angeles' communities regarding the LAPD's effectiveness, the ability of its officers to work in and communicate with the communities they serve, and potential areas for improvement. Through numerous interviews, meetings, and a survey of individuals who had filed complaints with the LAPD, the Panel attempted to ascertain community attitudes towards and their experiences with LAPD officers, the Police Commission and the Inspector General's Office, and the disciplinary system.

Many of the communities served by the LAPD feel that the LAPD fails to effectively communicate with their members. Numerous representatives of these communities stated that their personal interactions with the LAPD were mostly hostile and confrontational. Many people stated that the LAPD had failed to take advantage of community-based resources that could help to make the LAPD's job easier, and that the LAPD had failed fully to explain its mission to client communities. Many also expressed the view that the Police Commission does not represent the community vis-à-vis the Department and they were generally dissatisfied with the way in which their complaints were handled by the Department.

Methodology

The communities we surveyed included minority communities across Los Angeles including Latinos, African-Americans, Asians, and Pacific Islanders. We spoke to representatives from the Korean Resource Center, the Community Policing Safety Association in Chinatown, the 77th Street Area Community-Policing Advisory Board, the Youth Intervention Program in South Central Los Angeles, El Centro del Pueblo in Echo Park, the Asian Pacific Islander Police Advisory Council, the Asian Pacific American Legal Center, African-American members of the clergy, and several community representatives referred to the Panel by a Los Angeles City Councilmember. Youth from several communities were also represented.

Some of the people we interviewed participated in Community-Police Advisory Boards as well as other community-based organizations. They included business owners who have

provided cultural training to other police forces, and were, for the most part, long-time residents of Los Angeles.

Most of the meetings were held at the offices of the community group or individual with whom we spoke. We encouraged all attendees at these meetings to speak candidly and to provide as much specific information as they could regarding their interactions with the LAPD. Some of the participants indicated that they wished to remain anonymous because of their concerns about relationships within their communities.

We also conducted a survey of individuals who had filed complaints with the LAPD to determine the level of satisfaction of those who had made complaints and to determine the extent to which the Department was following its own rules in taking complaints from the community.

Some of the residents with whom we spoke expressed a concern that this Panel was merely one in a series of panels that have, over the past several years, attempted to address LAPD-community relations in the context of one or another dramatic incidents. The concern of these interviewees was largely that this Panel's work would not result in any more fundamental changes in the operations of the LAPD than prior panels or commissions.

Findings

1. The Los Angeles Police Department does not effectively communicate with the communities it serves.

The vast majority of the community representatives we interviewed, regardless of the particular community, ethnicity or age, stated that they do not believe the LAPD engages the residents and business people in the communities that the LAPD serves. That is, many of the people to whom we spoke felt that LAPD officers working in their neighborhoods did not take the time to meet the individuals in specific communities, to learn about the community itself and its peculiar dynamic, to engage those individuals who are willing to serve as community liaisons, to explain the LAPD's mission, and to accommodate the cultural and language differences across Los Angeles' many communities.

Almost everyone we spoke to stated that the failure of communication between the LAPD and residents of Los Angeles results in greater challenges for policing Los Angeles. Residents do not understand the LAPD's mission, the reasons for the use of certain tactics, or how to engage the LAPD without risking intimidation, hostility, or even physical aggression. The LAPD, it would appear, does not encourage the support that many of these communities

have to offer, connect with community representatives in a way that will foster improved community relations, or exploit opportunities to better understand and thereby serve the individual communities of Los Angeles. As a result, in the wake of incidents such as the Rampart scandal, the LAPD does not appear to have a bank of good will upon which to draw in the communities represented by our interviewees. Without a solid base of friendly and cooperative relations between the LAPD and these communities, the breach between the LAPD and many of the residents of these communities may have been widened by the Rampart scandal. This, in turn, will almost inevitably make the LAPD's task in these communities even more difficult.

Many of the interviewees reported that the LAPD has engendered substantial resentment and distrust in various communities in part because of a failure to engage individuals in these communities in a positive and constructive fashion. Thus, representatives and constituents of different youth intervention programs stated that the LAPD fails to use those organizations as a means by which officers can meet with young people in the community, participate in grass-roots intervention along with community members, and educate youngsters about the LAPD's mission. In fact, some of these organizations have been the focus of unwanted attention and unwarranted suspicion because the LAPD was concerned that the groups were themselves "facilitating" gang activity.

One aspect of the LAPD's relationship with various Los Angeles communities that was highlighted in our meetings was the barrier caused by ethnic, cultural and language differences. Community members told us that officers must better understand the customs and cultures of the communities in which they serve, and speak their languages if possible, to better communicate with and relate to the people in those neighborhoods. In much of the Korean-American community, for example, interviewees reported that the LAPD has failed to deploy resources to provide translation or interpretation for residents who interacted with the LAPD, and has not attempted to reach out to find individuals or groups that could act as liaisons with the community. As a result, it appears that the LAPD has failed to understand some of the difficulties faced by these newer Los Angeles residents. According to some of the interviewees, this has led to unnecessarily harsh confrontations between the LAPD and residents, discouraged residents from otherwise availing themselves of assistance from the LAPD, and led to unnecessary friction between some of these communities and the Department.

Some of the Los Angeles community representatives reported that, in their estimation, the LAPD has also failed to take advantage of the individuals and groups in some of these communities who could be of assistance to the Department. Some of these people, including representatives of the clergy, have voiced the opinion that the officers routinely fails to engage these individuals and groups, relying instead on intimidation and often physically aggressive tactics. While these individuals recognize the difficulty that officers face in policing sometimes dangerous areas, these community representatives strongly believe that the Department too often characterizes entire neighborhoods or communities as "dangerous" or "gang-infested." In that event, the people we spoke to believe that officers miss an opportunity to engage and encourage those people in the community who are otherwise predisposed to assist in crime-prevention, and squander a chance to engage and exploit potentially rich resources of information and assistance.

We were struck by a huge disconnect between how certain community representatives perceive the community interaction with the Department and how the Department perceives its communications with the community. The Department pointed out that in the 13-month period ending in July 2000, that "a total of 4,083 community meetings were held throughout the City, with 276,485 contacts with community members through 12,913 appearances by Department personnel."⁹⁶ Yet these efforts appear to be unrecognized or unappreciated by the community representatives, who in interviews with the Panel emphasized the Department's failure to communicate effectively with the community. In the end, it is not the number of contacts, but the content and quality of the communications that matter. The Department needs to make more efforts to have substantive meetings with the community and to facilitate a meaningful exchange of views.

2. Community members question the LAPD's commitment to community-based policing.

Running through interviews with members of the community is a consistent theme: without personal familiarity, there cannot be trust; without trust between officers and communities, law enforcement cannot be truly effective. Citizens want to see more officers on the street and they want to know who the officers are that they see. This cannot happen, many

⁹⁶ October 23, 2000 Staff Report by the Management Services Division on the Senior Lead Officer Program Restoration and Enhancement Proposal at 3 (hereinafter SLO Restoration and Enhancement Proposal).

believe, unless more officers know the people and the communities they serve, and cultivate more personal relationships with those people. There is a widespread desire for community policing. As a survey of crime and policing in Los Angeles observed, residents “who have seen or talked with officers in a community setting have more favorable views of the LAPD.”⁹⁷

Better law enforcement and safer communities are universal goals, but community members with whom we spoke identified numerous obstacles to achieving these goals. Not surprisingly, we were told repeatedly by residents that there were not enough police on the streets. While there was a common perception that the great majority of police officers are ethical and honest, there was also a general concern that officers who are on the streets are not as effective as they could be.

Citizens largely feel isolated from the police who serve their communities. Many have lost a sense that the police are part of the community. One factor contributing to this, we were told, is that few officers live in the communities they serve. In large part, however, this is due to the necessities of policing large areas with a relatively small number of officers who spend a great deal of time patrolling in cars. Community members told us that the officers need to get out of their cars. This is particularly true in communities with large immigrant populations. Many immigrants come from countries where distrust of the police is endemic, and officers’ lack of familiarity with local customs contributes to a perpetuation of distrust here.⁹⁸ Some people told us that “if officers could get out of their cars more often and be more approachable,” there would be more trust.

Among community member with whom we spoke, there was a general consensus that the 1999 transfer of the Senior Lead Officers (SLOs) to patrol duties under Administrative Order No. 3 has furthered a breakdown of familiarity and trust between officers and the community. We were told that SLOs are “a particular breed,” and that many patrol officers are simply not trained in or suitable for community relations. Some community members believe that the

⁹⁷Cheryl Maxson, et al., “Perceptions of Crime and Policing in Los Angeles Neighborhoods: Descriptive Results from a Survey of Four LAPD Areas,” Social Sciences Research Institute, University of Southern California, February 1999, at 15.

⁹⁸ Some of the representatives reported their ongoing concern that the LAPD appears to continue to cooperate with the Immigration and Naturalization Service in a fashion that discourages new immigrants from cooperating with the LAPD.

withdrawal of the SLOs from essentially full-time community policing will have a “long-range devastating effect.” Patrol officers are frequently unavailable for community policing, do not attend meetings, are not trained or prepared for dealing with the public, and see community policing duties as peripheral. Further, because of constant rotation and insufficient mechanisms for preserving and transmitting institutional memory within the LAPD, many patrol officers are poorly briefed on the community and its issues and are torn by conflicting duties. We were told that employment-related issues always “trump” service to the community. With the withdrawal of the SLOs under the Ideal Basic Car Plan, the result has been that residents “don’t see anybody” and feel that community relations have just “fallen through the cracks.”

In general, community members miss the SLOs, who were accessible, accountable, and more proactive in dealing with community issues than patrol officers. Because the SLOs were known and trusted, people were more likely to report crimes. Because the SLOs knew the community issues, the community believed they were more effective in directing the Department’s efforts at resolving those issues. The Department’s change in the role of the SLOs deprives some communities of the opportunity to learn first-hand what the LAPD is doing in that community, to share local information and insights with the Department, and to help the officers of that Area better understand the individual and group dynamics of particular communities.

It remains to be seen to what extent the Commission’s October 24, 2000 decision to adopt the Department’s “Senior Lead Officer Program Restoration and Enhancement Proposal” will in reality “restore” the program.⁹⁹ As stated in the proposal, the Department believes that it “would clearly be counterproductive to return the SLOs to their pre-1997 deployment.”¹⁰⁰ Thus, the Department’s proposal candidly admits that “[o]perationally, the Ideal Basic Car configuration will remain the same, with only minor modifications to deployment and the duties of SLOs.”¹⁰¹

Some of the residents to whom we spoke strongly supported the efforts of the LAPD to work with communities through the Community-Police Advisory Boards (C-PAB) and through outreach activities such as police sub-stations. What most community members reported was

⁹⁹ The introduction to the Department’s proposal is largely a defense of the decision embodied in Administrative Order No. 3, 1999, to abandon the SLO program.

¹⁰⁰ SLO Restoration and Enhancement Proposal, at 9, referring to deployment of SLOs prior to the appointment of Chief Parks and implementation of the “Ideal Area.”

¹⁰¹ *Id.* at 5.

that this program provided residents with a distinct, individual and personal LAPD presence in the community, and an institutionalized line of communication between the Department's personnel and the communities they serve. As a tool for increasing interaction between the LAPD and the community, however, the C-PABs have been inconsistent. We were told – and observed – that “much depends on the captain.” Some C-PABs involve many community members and are perceived as valuable avenues of communication with the Department. Others have been subject to more “dictatorial” control by Area captains, and are isolated and clubby. Even when community members have been involved, the lack of funding for community newsletters limits the dissemination of information about C-PABs and their activities, and constricts their usefulness in fostering community policing.

By way of example, representatives of Chinatown apparently feel that their community has a good relationship with the LAPD and believes that it is well-served. At least two things would appear to contribute to this. The LAPD has for some time maintained a substation in Chinatown, and the officers who patrol that community or who work in the substation do so over a long enough term to permit them to get to know the community and its residents. Through the substation, the LAPD apparently also has been able to access either officers or community liaisons who are fluent in Chinese. The C-PAB members to whom we spoke similarly praised the fact that the organization permitted them both to be informed of the LAPD's activities in their neighborhoods, and to provide meaningful feedback, information, and even criticism to the LAPD on behalf of their constituents.

Nevertheless, it appears that many C-PABs fail to fulfill the function of community outreach that many residents feel is critical to the LAPD's mission. First, some C-PAB members stated that the C-PAB tends to be one-way in its communication. It is not clear to residents that their input affects the LAPD's behavior either locally or at a strategic level. Second, by its very nature, the C-PAB results in a certain level of self-selection of its membership that excludes potential members who would prefer to work with the Department in a more confidential or even anonymous setting. Third, the C-PAB meetings generally require that community members come to police stations for meetings. Some residents feel that this further isolates the LAPD from their constituents. In the opinion of these community representatives, the Department would serve the community more effectively by going out and attending Block Club meetings and other meetings that take place in the neighborhoods it serves.

Members of the clergy with whom we spoke opined that LAPD officers too often treat entire communities as an undifferentiated mass that must be controlled and restricted rather than understood and engaged. In one meeting, a member of the clergy compared the community orientation of officers from a neighboring police department with the disengaged style of LAPD officers. Nearly all of the representatives with whom we spoke reported that officers at all levels still routinely fail to relate to the communities that they serve in a way that would permit the LAPD to accommodate cultural, social, and language differences in their Areas. The result of this perceived failure is that many community residents we spoke to are unlikely to show the support for the LAPD that they otherwise might, are likely to be resentful and distrustful of the officers they encounter or avoid encountering, and have little opportunity or incentive to support the Department's community policing efforts.

3. Many residents view the LAPD as excessively hostile and confrontational.

Many residents of Los Angeles' minority communities characterize their interactions with the LAPD as largely confrontational. On numerous occasions, we were told of instances where LAPD officers stopped individuals, often young people, but also middle-aged or even older residents including clergy, without apparent reason. In many of these instances, interviewees reported that the encounter was hostile and confrontational from the outset and that after sometimes extended questioning (in some instances in a patrol car), they were sent on their way without a ticket, citation, arrest or explanation. Some young people reported being photographed during such stops and others reported that they were searched even on their way to or from school.

In numerous instances, interviewees reported that LAPD officers in their communities appeared to take an extremely confrontational approach when dealing with residents in largely minority or immigrant communities. Some interviewees reported that style of dress, youthfulness or ethnicity may have been the cause for what they believe were unwarranted stops. Without further data, it is difficult to determine whether these purportedly unwarranted stops were higher in number in minority versus non-minority communities. However, inasmuch as many of our interviewees reported both being stopped without apparent cause, and being released without arrest, citation, or explanation after sometimes extended and hostile questioning, residents in these communities remain convinced that, at least in these communities, the LAPD continues to act as an "occupying force."

While some LAPD officers made substantial efforts to work with young people either through the organizations participating in the interviews or individually, many interviewees reported numerous instances of young people being stopped repeatedly by officers for "suspicion" of gang affiliation or activity. The unfortunate but apparently widespread perception among many of the young people in minority communities, and the community based organizations that work with them, is that LAPD officers patrolling these communities do not sufficiently differentiate between individuals. The conclusion reached by the interviewees is that they are subject to depersonalizing and categorizing by appearance, attitude and association.

4. Residents do not believe that the Police Commission represents their interests

The almost universal perception of community groups and representatives is that the Police Commission has no real connection with the City's many communities that it serves and that the Inspector General has no real role in civilian oversight over the Department.

These groups and representatives stated their belief that the Police Commission does not seek input from the community in making policy for the LAPD. It was mentioned that various Police Commissioners failed to appear at community gatherings to which they were invited and none of the community representatives recalled any occasions when their opinions were solicited on matters of community concern. Community representatives expressed the view that their main connection with the LAPD was through their local Area captains, not through the Police Commission.

Community representatives were also critical of the make-up of the Police Commission. Regardless of ethnicity or other indicia of diversity, the Commissioners were all seen as "big firm lawyers from downtown" who had no community ties. As such, the Commission is seen as not adequately representing the community. The representatives also expressed the need for the Commissioners to reach out for community input and to use the many resources that other city and county organizations use to determine community needs. The LAPD is seen as having a "fortress" mentality that neither seeks nor wants information regarding community concerns.

The Inspector General is seen by community representatives as an internal auditor for the LAPD rather than the "eyes and ears of the Police Commission." They do not see the Inspector General as a means of providing input to the Commission and none reported any interaction with the Inspector General's office.

5. There is general dissatisfaction with the Department's handling of public complaints.

In evaluating the Department's disciplinary system, the Panel analyzed the community's access to the complaint process, the extent to which the Department follows its own policies in taking public complaints, and the community's perceptions of the systems as a whole. In doing so, the Panel interviewed numerous community leaders; audited each community police station for the availability of complaint forms and explanatory materials; and conducted a survey of past complainants regarding their satisfaction with the system.

The Christopher Commission found that community members had difficulty making complaints against police officers. Complaint forms were not readily available, officers discouraged the lodging of complaints, and language barriers were a further impediment to making complaints.

Progress has been made since the Christopher Commission report. Each community police station we visited had copies of the complaint forms available in English, and all but one station had the form available in Spanish, Korean, and Cantonese as well. Most stations had the complaint forms in a display rack designated for the forms, although a few were empty and the forms had to be requested. Some, but not all, of the stations had enlarged information posted about how to file a complaint. Only six stations had instructional pamphlets available in different languages and only seven had pre-addressed envelopes to submit the complaint.

Generally, members of the community understand that complaints can be lodged against police officers. One community leader specifically noted that the change in police conduct has been dramatic after the Christopher Commission report. Nevertheless, community leaders pointed to a number of anecdotal accounts – widely known in their communities – about police misconduct that did not result in the filing of complaints due, at least in part, to distrust of the Department and its willingness to investigate such misconduct.

Interviewees who filed complaints with the Department reported mixed results in their attempts to report police misconduct. Some of interviewees reported that they have responded to perceived unfair treatment by visiting their local community police station and registering a complaint orally with the Area captain. Others have reported that they have filed written grievances or complaints. However, other than obtaining meetings with Captains (and even the Chief of Police) on some occasions, these interviewees reported that they were mostly dissatisfied with what they perceived as a failure to act on their complaints. In fact, some

interviewees pointedly noted their reluctance to file either formal or informal complaints because they feel it will be useless or that it might engender a hostile reaction from the Department.

California Survey Research Services, Inc., conducted a telephonic survey for the Panel during August 2000. The survey results and individual comments in response to the survey confirmed what various interviewees had stated. There is general dissatisfaction with the way in which the LAPD handles citizen complaints.

The Panel received a total of 152 responses from individuals who filed complaints with the Department from January 1, 1997 through June 30, 1999, and whose complaints had been adjudicated and recorded as "closed out" by the Department.¹⁰²

Fifty-eight percent of respondents stated that they were generally satisfied with the treatment by the officer who took their complaint. Only 41 percent were satisfied with the Department's follow-up. The most significant response was that only 22.4 percent of the respondents believed that their complaint was thoroughly investigated by the Department.¹⁰³

There was a general sense among many of the respondents that the officers who took their complaints were uninterested, and biased against the complainant. Comments included "the officers weren't very interested in my case;" and "he had a biased opinion about the whole thing."

Problems in filing their complaints were reported by 19 percent of the respondents. Some stated that they could not get the Department to respond to the complaints, stating, "I kind of got the run around the first couple of people I talked to;" "Nobody wanted to tend to me; they would pass me from one person to another;" and "None of the officers wanted to help me." As expressed by one complainant, "No one really cared. There wasn't for me, a citizen, a sympathetic ear at the police station."

Nearly 24 percent of the respondents indicated that they were "discouraged by an officer from making a complaint," and almost 26 percent indicated that they felt "intimidated." For example, one respondent stated that the officer who was taking his complaint "immediately and

¹⁰² The respondents represent less than 3% of the outside initiated complaints taken by the Department during the survey period. Therefore, the responses reported here may or may not be reflective of the experiences of all complainants.

¹⁰³ Nevertheless, 79% stated that they would still advise others to file a complaint if they were dissatisfied with their treatment by the Department.

continuously tried to prove the innocence of his officer.” Another respondent indicated that the officer told him that he “couldn’t file a complaint against officers without any witnesses.” A number of comments echoed the comments of one respondent who stated that the officer “tried to discourage me by telling me that if I was lying I could be arrested.”

Statements of 56 percent of respondents were tape recorded, and 46 percent reported that they were allowed to read and sign a statement. Only 29 percent stated that they were given a copy of their statement. Only 53 percent stated that they were given a business card. A letter confirming the Department had received their complaint was received by 74 percent of those responding to the survey. Significantly, only 58 percent reported that they were informed of the results of the investigation of their complaint.

Recommendations

3.1. The LAPD should direct more resources to improving its outreach programs to broaden relations with the communities its serves.

Most of the residents with whom we spoke recognize that the LAPD faces a difficult and challenging task in policing Los Angeles' many communities. Further, many of these residents recognize that the LAPD is subject to numerous and sometimes competing priorities. As one of the captains we interviewed observed, the LAPD has not placed emphasis, i.e. provided funding or other support, on community-relations types of activities. Instead, the emphasis is on quantitative results, mostly arrest numbers. The residents we interviewed, however, almost universally believe that improvements in the LAPD mean first and foremost improvements in the relations between the LAPD and the communities that make up Los Angeles.

Repair of the breach between the Department and the community will require, more than anything else, meaningful and constant two-way communication between LAPD's officers and the residents in the communities they serve. The greater part of the challenge of instituting these recommendations is whether the LAPD can and will engage the people in the communities they serve. As the force charged with maintaining order in a populous, diverse and geographically large city, the LAPD might find that there is an inherent tension between promoting community relations and enforcing criminal laws. Yet, many of our interviewees strongly believe that the former would support and make easier the latter.

It is clear from our interviews that the current level of discontent in various communities in Los Angeles cannot make the day-to-day jobs of LAPD officers an easy one. In the wake of

the Rampart scandal, it is difficult to believe that those communities will be encouraged to be any more trusting of or friendly toward the LAPD. As a result, it would appear to us that it is incumbent on the LAPD to reach out to these communities and to engage them in a positive and constructive fashion. The impetus toward such action need not be purely altruistic motives on the part of the LAPD. There is every reason to believe that the LAPD would make its task easier by taking steps to engender greater support and trust within the communities in Los Angeles.

3.2. The Department should reaffirm its commitment to community policing.

The community representatives to whom we spoke believed that the Department can improve its interactions with the community through community policing programs. Thus, the representatives we spoke to cited a number of ways that this can be achieved, including reinstating the SLO program, expanding C-PAB-type meetings to include more community-based organizations, and encouraging LAPD officers to take advantage of community-based resources, such as translation/interpretation services, cultural education and training, and community-based intervention programs.

3.3. The Police Commission must improve its communications with the communities it serves.

As the body charged with responsibility for civilian oversight over the LAPD, the Police Commission should represent the interests of the people of Los Angeles to ensure the delivery of effective police services with due regard for every person's rights. Yet in numerous interviews and meetings, it is apparent that the participants did not view the Commission representing the community's interests. The Police Commission should hold regular community outreach meetings which should focus on an exchange of information between the Commission and the community. The Commission should also establish systems to measure improvements in LAPD-community relations.

3.4. The Police Commission should address problems with the handling of citizen complaints by the Department by establishing a Public Complaints Section within the Office of the Inspector General.

The Police Commission should direct the Inspector General's Office to conduct periodic quality control audits to monitor complainants' satisfaction with the personnel complaint process and ensure that officers taking complaints comply with all Department policies, rules and procedures.

Several major cities throughout the United States have separate civilian agencies responsible for receiving, processing and monitoring the progress of public complaints of police misconduct. Indeed, many are involved in the actual investigation of such complaints. On the whole, those agencies appear to function well, making it easier and less intimidating for community members to file complaints. A good case can be made for creating a similar agency in Los Angeles.

Nonetheless, the Panel does not recommend taking this step, at least not yet. The LAPD has long had a civilian Board of Police Commissioners and in 1995 added a civilian Inspector General. Our recommendations elsewhere in this report would significantly strengthen both of these institutions. In addition, the Department will soon get a special master to monitor compliance with its consent decree with the United States Department of Justice. We are reluctant to add another layer of civilian oversight before giving these institutions a chance to work. In particular, the Office of Inspector General – with proper staffing and cooperation from the Department – could do much through regular audits and spot inspections, to ensure that no one filing a complaint is either stalled or intimidated. We think the City and the Department should try to make its existing institutions of civilian oversight effective before building a new one.

Short of a separate civilian agency, we recommend that the Police Commission establish a formal Public Complaint Section that would be staffed by civilians to enhance the ability of members of the public to make complaints directly to the Police Commission rather than to the Police Department. Currently the Inspector General does receive complaints directly from the public and only monitors the investigation of such complaints. Establishing a Public Complaint Section within the Inspector General's Office would enhance these efforts, and demonstrate the Police Commission's commitment to facilitating complaints regarding officer misconduct from the public. The Section would have an office at the Office of the Inspector General and small branch offices throughout the City, such as at City Council field offices, to take in-person complaints. The Section would also facilitate reporting by accepting complaints by mail, on-line, or by facsimile, and would disseminate informational materials. Once a complaint has been received, the Section would refer the complaint to Internal Affairs Group (IAG), which would initially determine which entity in LAPD should conduct the investigation.

The Public Complaint Section would monitor the status of the investigations and take steps to ensure that each complaint is investigated in a timely fashion. Finally, the Section would be charged with informing the complainant of the outcome of the investigation by the Department and ensure appropriate follow-up and notification to the complainant.

Having greater civilian involvement in the disciplinary process will enhance the credibility of the process with the public and enable the Police Commission and the Inspector General to get feedback from the public regarding the quality of the investigations and the public's satisfaction with the process.

CHAPTER 4

DISCIPLINE

Introduction and Summary

As the Board of Inquiry recognized, the Rampart scandal raises grave questions about the quality of supervision and discipline in the LAPD. Here we discuss problems with the way in which the Department handles allegations of misconduct. Our findings and recommendations are the result of more than 120 interviews with the public and law enforcement officers in Los Angeles and elsewhere, together with our review of thousands of pages of relevant documents provided by the Department and by other police agencies throughout the United States.

There is much that is right with the LAPD's disciplinary system. The Department has made discipline a high priority and has done much to ensure that allegations of misconduct are treated seriously. All complaints of police misconduct are reduced to writing and find their way to a single point for review and investigative assignment – no small achievement given the size of the LAPD and the demands on its resources. Throughout the Department, among both command staff and rank-and-file officers, the commitment to effective discipline is strong. Every sworn officer with whom we spoke expressed a desire for a system that addresses misconduct and removes it from the Department. The officers were unanimous that there should be no tolerance in the Department for abuse of police power.

Unfortunately, the Department's current discipline system leaves much to be desired.¹⁰⁴ The Board of Inquiry pinpointed some of the system's deficiencies. The Panel concurs, in particular, with the Board's recommendations regarding the jurisdiction, staffing, and operation of the Department's Internal Affairs Group (IAG). Our recommendations, however, go beyond those of the Board of Inquiry.

As we explain in more detail below, the Department's internal discipline system has several fundamental defects. First, the system is overburdened. The policy of investigating every complaint has caused the system, at times, to grind to a halt and caused many to perceive

¹⁰⁴ Although our focus here is on the disciplinary system, we recognize that it is impossible to evaluate the disciplinary system in a vacuum. Rather, it is a process that is impacted directly and dramatically by several managerial and administrative realities. Indeed,

the system as onerous. As a result, the current system consumes a significant portion of the time and efforts of commanding officers and supervisors, who are responsible for the leadership, training and supervision that is supposed to prevent misconduct from occurring in the first place. Indeed, large portions of the conduct that finds its way into the disciplinary system is the type of conduct that, with proper mentoring, training, supervision and leadership, can and should be avoided.

Second, the IAG lacks sufficient staff, and the staff it has lacks proper support. Third, the system lacks structured discretion. Some aspects of the discipline system leave the Department no ability to respond to varying circumstances; other aspects give the Department virtually unfettered flexibility. What the system consistently lacks, and what it critically needs, is room for the sensible exercise of discretion within limits imposed by formal guidelines. This combination of an overburdened system, insufficient IAG resources, and the absence of discretion means that the disciplinary system consumes a significant portion of the time and effort of supervisors, who should be providing the leadership, supervision, and training to prevent potential disciplinary problems in the first place.

Before addressing these specific areas of concern, we should note at the outset that in the course of our interviews we detected a reluctance by LAPD officers at all levels to criticize the current disciplinary system on the record, and a fear by officers that any criticism of the system might block their advancement within the Department. Regardless whether this fear is justified, its existence is cause for serious concern, and it reinforces the findings and recommendations we make elsewhere in this report regarding officer morale. Neither the LAPD's discipline system nor the Department as a whole can function effectively unless officers believe they have a stake in its success, and that they can criticize it without fear of retaliation.

In an organization as large and complex as the LAPD, any fair and effective system of discipline must make provision for the structured exercise of discretion. The individuals administering the system must be able to take account of endlessly varying situations giving rise to allegations of misconduct, but to ensure equity and consistency, their decisions must be constrained by formal guidelines. The current LAPD discipline system errs in both directions.

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leadership, morale, supervision, training and budgetary considerations all impact the disciplinary system.

In broad terms and with some notable exceptions, the processing of complaints is too rigid, and the selection of sanctions is too ad hoc.

Findings

1. The Department's disciplinary system is overburdened and has impacted supervision and officer morale without achieving credibility with the public.

Until 1998, complaints against LAPD officers were often handled informally, under a variety of procedures that often led to no notation in the officer's permanent records. This system made it difficult to monitor the complaint process or to track complaints filed against a particular officer or group of officers. Since January 1, 1998, by Special Order No. 1, Chief Parks has mandated that *all* complaints must be formally recorded and routed to IAG, fully investigated and adjudicated, and written up in a detailed report. The current system, known in the Department as the 1.28 system, is a response to historical abuses in which public complaints were inadequately investigated or ignored altogether.

The difference in the two systems is striking. According to Department statistics, 1,912 formal complaints were filed, investigated and adjudicated in 1997. Following adoption of the 1.28 system, this number jumped to 5,339 in 1998 and 5,284 in 1999. Formalizing the complaint process has made it more accountable and easier to track. It is essential that every complaint be documented on a complaint form, numbered, and routed to IAG, regardless of the nature of the allegation, and regardless of whether the complaint warrants a full investigation for adjudication or, as suggested below, a more summary resolution involving the exercise of judgment and discretion by supervisory personnel.

Neither system is ideal. While the prior system allowed for frivolous complaints to be addressed quickly through informal measures, it allowed for the abuse of the informal mechanisms in situations warranting a formal complaint. It also made it impossible to create an accurate tracking system to conduct meaningful monitoring. The new system also has several drawbacks.

On its face, the new policy is a laudable reform for the Department. In practice, however, it has impacted the Department's ability to conduct its primary police duties. The new system has created a substantial increase in workload without boosting administrative support for the investigators, staffing for IAG or the Office of the Inspector General (OIG), or technical resources for the Department. As a result, virtually everyone we spoke to in the Department –

including rank-and-file officers, supervisors, and command staff – told us that many officers at the rank of sergeant and above spend at least half of their time investigating, documenting, or adjudicating complaints. Accordingly, they have less time for supervising and managing to ensure proper police conduct at the outset. We were repeatedly told by officers at all levels in the Department that this situation deprives officers of adequate supervision, forces less-experienced officers to train themselves, and allows minor mistakes to escalate into serious problems. The absence of experienced managers in the field significantly increases the potential for officer misconduct, as well as mistakes when interacting with the community.

Correspondingly, the Board of Rights (BOR) hearings have also become a significant drain on Department resources. Board of Rights are panels comprised of two commanding officers at the rank of Captain and above and one civilian who act as judges of guilt or innocence of officers charged with serious misconduct. In 1997 there were 133 BOR hearings. In the first six months of 2000, there were 240 hearings. These proceedings are time-consuming and take staff and command officers away from their primary leadership responsibilities. Members of the Panel were told that some commanders reported spending as much as 75 percent of their time in BOR hearings.

These costs might be worth bearing if the 1.28 system had significantly increased public confidence in the Department's disciplinary system. But it has not. As we discuss elsewhere in this report, many of those filing complaints against LAPD officers still believe their complaints are inadequately investigated. Indeed, only 22.4% of the complainants we surveyed believed that their complaints were thoroughly investigated. In part this reflects the understaffing and underfunding of IAG, a matter discussed below. But in part it may also reflect the Department's failure to adjust its investigative response based on the nature and seriousness of particular complaints.

While there is no question that the dramatic increases in complaints filed and BOR hearings is directly attributable to Special Order No. 1, and that this increase has impacted supervisory resources, it is also true that prior to the change in policy, supervision within the Department was not always effective. As currently structured, the disciplinary system diverts too many supervisory resources from the field where they can and should accomplish the greatest good. If and when these supervisory resources are re-deployed in the field, however, they must

be held accountable for the leadership, supervision and training that will prevent officer misconduct.

2. The disciplinary system is too rigid and inflexible.

Part of the problem is that the same investigative protocol is followed for virtually all complaints, regardless of the type or severity of misconduct alleged.¹⁰⁵ Supervisors have little ability to match the level of investigative resources to the circumstances of the complaint.

Similarly, any complaint against an officer automatically freezes the officer's advancement until the complaint is investigated and adjudicated. Because the 1.28 system is so overburdened, investigations over even minor matters can drag on for months, during which time the officer is treated as guilty until proven innocent. The rigid rule blocking an officer's advancement pending investigation and adjudication of any complaint, no matter how frivolous, contributes to the widespread resentment of the 1.28 system throughout the LAPD, and explains the lengths to which some officers go to avoid prompting any complaint.¹⁰⁶

Any kind of adjustment can easily lead to abuses – and did lead to abuses before adoption of the 1.28 system. The problems with the Department's current disciplinary regimen do not justify returning to the pre-1998 practices that effectively allowed many complaints to disappear. Nor do they justify giving Department supervisors unfettered discretion to decide on an ad hoc basis how thoroughly to investigate a given complaint, and how the officer should be treated during that investigation. But these problems do suggest that the Department needs to develop formal guidelines to distinguish among complaints based on their seriousness, and to ensure that relatively less severe complaints – for example, those alleging only discourtesy – neither consume inordinate amounts of supervisory time, nor block an officer's advancement pending their disposition.¹⁰⁷ Thus, for example, the guidelines would identify those allegations that a

¹⁰⁵ There are some exceptions. "Failure to appear", "failure to qualify", and preventable traffic collision complaints are processed on a "short form." At the other end of the spectrum, shootings and major uses of force by officers are investigated under special procedures discussed elsewhere in this report.

¹⁰⁶ We discuss these matters at greater length in the chapter on Ethics, Culture and Communication.

¹⁰⁷ For officers with a pattern of complaints such as discourtesy that raise questions about an officer's interactions with the public, there should be a review of his/her readiness for advancement; but the delay should not be automatic.

Division or Area commanding officer could resolve, in his or her own discretion, by conducting an investigation and imposing discipline, providing additional training, or attempting to mediate the dispute between the complainant and the officer.¹⁰⁸ More serious allegations would require a full investigation by the Area and the most serious allegations must be investigated by the IAG.

A guidelines matrix would provide the community with the assurance that the Department will not ignore or fail to investigate serious allegations of misconduct while, at the same time, it will allow the Department's commanding officers to exercise leadership and judgment in the handling of relatively less serious complaints. It cannot, however, gain the trust and confidence of the public unless it is based upon formal criteria and is subject to audits by IAG and the Inspector General's Office.

Formal guidelines would also help to rectify another problem with the Department's processing of complaints. Currently there are no written criteria for determining whether IAG or the officer's Area will investigate a complaint. According to IAG officers interviewed by the Panel, the single most important factor in determining whether IAG will investigate a matter itself is the extent of available resources in IAG when the complaint is received. IAG also takes into account, in a subjective and ad hoc manner, the seriousness of the allegations and the public interest in the matter. The unguided nature of this decision in this process undermines the public's confidence that complaints are handled in a consistent manner.

Formal guidelines are not, however, a substitute for leadership and the responsibility of leaders in the Department to make the system work. Senior officers must accept their role and lead by example.

3. The Department's Internal Affairs Group – the linchpin of its internal discipline system – is underfunded and understaffed.

At present, complaints of police misconduct, whether from the public or from Department personnel, can be filed in person, by mail, or by telephone, with IAG, with the

¹⁰⁸ Consideration should also be given to developing a formal mediation program in which complainants and officers can agree to submit a complaint for mediation by supervisors in the Department or outside volunteer mediators. The resolution of problems through a mediation program (such as the program run by the City Attorney's office for certain criminal complaints) could provide valuable lessons and feedback to officers. It may also provide greater satisfaction to complainants because it will allow them to be part of the process that resolves the complaint.

Office of Inspector General, with sworn personnel (at the incident scene, at Parker Center, or any community police station), at City Hall or in any of the City Council field offices. Since 1998, however, all complaints – wherever and however filed – are routed to IAG and given a number for record-keeping purposes. There are no exceptions and informal mechanisms cannot be used to resolve the complaint. At IAG, a captain reviews the complaint and determines whether the complaint will be investigated by IAG, a special unit or task force within IAG, or the officer's assigned Division or Area. Every investigation retained by IAG is assigned to a primary investigator, with a secondary investigator to participate in interviews, each a sergeant or detective.

IAG investigates only about ten percent of all complaints. Whether IAG will investigate the matter is dictated, in part, by the IAG case load rather than the severity of the new complaint. But referring the case back to the officer's Division for investigation merely shifts the case load problem. At the Division, the complaint is investigated by a supervisor, typically a sergeant. Sergeants bear the burden of complaint investigation while, at the same time, they serve the critically important role of supervising the line officers. All time spent investigating complaints – although an important component of the discipline system – takes directly away from the amount of time sergeants (or lieutenants or captains) have available to supervise.

In conducting the investigation, IAG or the officer's Division interviews the officer and any other relevant witnesses. The investigation is then documented in a detailed reporting form setting forth the evidence relating to the complaint and providing an in-depth summary of all interviews. Whether investigated by IAG or the officer's Division, the investigative file is then forwarded to the officer's Commanding Officer (C/O), usually a Captain III for patrol and a Captain I for detectives, for adjudication and determination of an appropriate penalty to be imposed. The C/O reviews the file and determines whether the complaint should be sustained, not resolved, unfounded, exonerated or closed as “No Department Employee”, “other judicial review”, or a similar category. If sustained, the C/O recommends a penalty, which may consist of one of the following: Warning, Admonishment, Official Reprimand, Suspension, or Termination.

The C/O's determination is reviewed by Bureau Commanding Officers. These staff officers can agree or disagree with the Division recommendation and these views are added to the file. The file is then routed to the Review and Evaluation Section of IAG to review the

adequacy of the investigation. If the investigation is deemed inadequate it is returned to the C/O for more work. Unless the classification is sustained, the file is closed. The file is then sent to the Inspector General's Office. (This is generally the Inspector General's first contact with the investigation of the matter.)

If the complaint is sustained and the penalty recommended does not include suspension, the C/O imposes the penalty and the case is closed. A record of the penalty becomes a part of the officer's personnel file. If the penalty recommended is suspension, the file is presented to the Chief of Police for review and determination of the appropriate penalty. (It is understood in the Department that C/O's should recommend less than suspension if they do not want to draw the Chief of Police's attention to the incident and there is some concern in the Department that this is abused. An effective tracking system, which we recommend in the chapter on Risk Management, would alleviate this concern.) If the Chief recommends a suspension of 22 days or less, the officer can accept the suspension or choose to proceed to a Board of Rights (BOR) hearing. If the penalty is a suspension of more than 22 days, removal or demotion, the case automatically proceeds to a BOR hearing.

IAG thus plays several critical roles in the disciplinary process. IAG reviews every complaint at the outset and at the conclusion of the investigation, determines who should conduct the investigation, and assesses the adequacy of the investigation. By investigating serious complaints of police misconduct itself, IAG brings to those difficult and important investigations its special experience and expertise. However, every investigation that IAG cannot accept must be investigated by Division supervisors, taking them away from overseeing their officers in the field. The Panel heard repeatedly that many supervisors spend half or more of their time on public complaints, depriving new officers of adequate supervision in the field and undermining the Department's ability to prevent misconduct in the first instance. The cases IAG sends back to the Divisions for investigation – 90% of the total – obviously place particularly heavy loads on Division supervisors, and therefore impose particularly heavy costs on the ability of the Department to supervise its officers in the field. This means that Divisions are investigating allegations of serious misconduct that occurred in the Division.

IAG is staffed too thinly to handle the investigations it should. The staff shortage results both from inadequate budgeting and from difficulty in recruiting investigators. As the Board of Inquiry noted, "deployment of detectives into IAG has largely been a failure as IAG has been

unable to attract [the Department's] most experienced detectives."¹⁰⁹ One reason for this recruiting failure is that detectives work alongside sergeants in IAG and do similar work, but are paid less. In addition, because of the limited number of Detective II positions in the Department, Detective IIs may have little choice over their next assignment after IAG. In particular, if there are no Detective II positions open when a Detective II's tour at IAG ends, he or she is forced to go back to the rank of Detective I with a substantial pay cut. The detective also has minimal choice as to what Division he/she may be assigned to. For these reasons, it is an unattractive career move for a detective to move to IAG and this impedes recruitment of strong investigators.¹¹⁰

Inadequate staffing of IAG strains the Department's supervisory resources and seriously undermines not only the quality of the Department's internal investigations but also their timeliness. By City Charter, a suspension or discharge of an officer must be imposed within one year of discovery of the underlying violation. The Panel heard repeatedly that investigations often are not completed until the one-year limitations period is about to expire or has already expired, leaving little or no time for the Inspector General to review the file and to assess the punishment imposed. According to IAG's statistics, the limitations period was allowed to expire in over 60 instances in 1999 alone. Nor does the Department allow the limitations period to expire only on minor matters. In 1996, for example, multiple complaints were filed against two Rampart detectives for mishandling narcotics. The Department failed to complete the investigation within the one-year limitations period.¹¹¹

¹⁰⁹ LAPD Board of Inquiry into the Rampart Area Corruption Incident, Public Report at 337 (2000) (hereinafter BOI Report).

¹¹⁰ IAG also appears to lack adequate computer support. Some units within IAG are not connected to the Department's computer network, and the desktop computers issued to IAG personnel may not be powerful enough to run investigative software that would help investigators work more efficiently.

¹¹¹ The understaffing and underfunding of IAG has also prevented the Department from implementing a key recommendation of the Christopher Commission that, at the conclusion of every disciplinary case, the file be sent back to Internal Affairs for review. The Panel was told a backlog of about 600 complaints currently await such review at IAG. The Christopher Commission also recommended that the Office of the Inspector General conduct a separate review of every closed discipline file. The backlog at that office is approximately 1,500 cases.

4. The Department's selection of sanctions lacks guidance and creates a system that is perceived to be arbitrary and unfair.

Whereas the LAPD's procedure for processing complaints suffers largely from undue rigidity, the selection of administrative sanctions – like the decision about whether a complaint should be investigated by IAG or the officer's Division – is too open-ended. The Department lacks formal criteria for selecting the appropriate penalty for misconduct, and – partly as a result – officers throughout the Department believe that sanctions are applied unfairly and inconsistently. In particular, our interviews make clear that there is a widely perceived double standard: staff and command officers are almost universally thought to receive more lenient sanctions than the rank and file.

Not only did the Panel hear this complaint again and again from rank-and-file officers, from representatives of the Los Angeles Police Protective League, and from officers in the Department's Officer Representation Section, but the allegation of a double standard was indirectly confirmed in our interviews of staff and command officers. With the notable exception of the Chief of Police, virtually all command staff officers we interviewed on this issue thought the Department properly took account of an officer's length of service in determining the appropriate punishment for an administrative violation. The Department, they explained, must "come down hard" on an officer with little time in service, but officers who have been with the LAPD for many years should "catch a break."

This viewpoint is understandable, but flawed. Seniority should have no place in the selection of administrative sanctions. Misconduct by senior officers is in some ways *more* serious than misconduct by junior officers, because senior officers necessarily lead by example. More importantly, when senior officers are treated leniently for similar violations that earn junior officers stiff penalties, the Department sends a message that all officers are not held to the same high standard – and, in particular, that the leadership of the Department is unwilling to apply the same rules to itself that it imposes on the rank-and-file. This message takes a terrible toll on morale. Indeed, even occasional departures from uniformity can be highly damaging: many of the rank-and-file officers interviewed by the Panel referred bitterly to the same two examples of command officers treated leniently for serious misconduct.

5. The Boards of Rights are perceived to be unduly influenced by the Chief of Police.

A BOR hearing is similar to a judicial proceeding in that it determines whether the officer is guilty of the misconduct alleged in a complaint and what punishment should be imposed. The BOR panel adjudicating the matter consists of one civilian, chosen from a list of people established by the Police Commission, and two officers at the rank of captain or above. The officer may be represented by counsel or an Officer Defense Representative. Once the matter is adjudicated, the Board's findings and any penalty are reviewed by the Chief of Police, who can accept or reduce the penalty. The Chief cannot increase the penalty.

The perception that penalties are imposed inconsistently and unfairly is exacerbated by lack of confidence in the fairness of Boards of Rights. Several Boards of Rights members told the Panel that the Chief asked them to justify penalty decisions with which he disagreed. The Chief confirmed this and told the Panel he believed his practice was required by his ultimate responsibility under the City Charter for Departmental discipline. Unfortunately, these conversations can create the appearance, rightly or wrongly, that the Chief is trying to influence subsequent Board of Rights decisions, including adjudication of guilt or innocence. Sworn officers on the Board, whose future promotions and merit pay increases will be determined by the Chief, may feel pressured to vote in accordance with what they perceive to be the Chief's desires. Some civilian Board members told the Panel that they believe that this kind of pressure affects the votes of sworn Board members.¹¹²

It is clear that the adjudication of guilt or innocence must remain with the Board of Rights. It is also essential to avoid even the appearance that the Chief of Police is attempting to influence this process. In order to address this situation, the BOR should be made up of a captain, a civilian, and a retired law enforcement officer selected from a list that would be approved by the Department, the Police Commission, the Protective League, and the Command Officers' Association. The use of retired law enforcement personnel would not only avoid the appearance of impropriety, but would also reduce the strain on Department resources.

¹¹² Our interviews also suggested that Officer Defense Representatives at Board of Rights hearings may often be ill-prepared and ineffective. The officers with whom the Panel discussed this issue believed that representatives of the Los Angeles Police Protective League do a better job representing officers before the Board of Rights, and suggested that the League should provide this service systematically.

As to punishment, it is difficult to see how the Chief can retain ultimate authority over, and accountability for, discipline in the Department without the ability to make his views known to Boards of Rights members. Yet, the Chief's questioning of Board members about specific cases undermines the credibility of the Board of Rights as an adjudicatory body, with respect to issues of guilt or innocence as well as issues of penalty. This problem would not arise if, once the Board of Rights concluded that misconduct had occurred, the Chief were given sole authority to select an appropriate penalty. But concentrating authority over penalty selection in this way would make it even more imperative that the Chief's decision be guided by formal criteria, to avoid both real and apparent arbitrariness.¹¹³ Further, the Chief's imposition of punishment should be reviewed carefully and, if necessary, discussed by the Police Commission in public hearings, if possible, periodically throughout the year. The Chief's handling of discipline also should be an important criterion for the Chief's annual performance rating by the Police Commission.

6. Other aspects of the disciplinary system are perceived to be arbitrary and unfair.

The problem of inconsistent penalties at the LAPD has not been limited to the formal sanctions imposed by commanding officers or Boards of Rights, and in some cases reduced by the Chief. Other aspects of discipline in the Department have also suffered from a lack of formal guidelines.

Brady letters. For example, beginning in 1998 and continuing until the latter portion of this Panel's investigation, the Department sent "*Brady* letters" to a number of officers throughout the Department who had been disciplined for honesty-related offenses. Nominally the letters were a response to the legal obligation of prosecutors to disclose to defense counsel potentially exculpatory information – including reasons to doubt the honesty of any police officers who testify for the prosecution.¹¹⁴ The letters informed the recipients that their conduct had raised "serious doubts" about their credibility that might need to be disclosed to defense counsel, and that, accordingly, the recipients were being moved "to a non-field related assignment" that would not involve making arrests, preparing arrest reports, or testifying in court. By prohibiting the

¹¹³ It may also be wise for the Chief, in his discretion, to include one or more deputy chiefs in penalty decisions.

¹¹⁴ *Brady v. Maryland*, 373 U.S. 83 (1963).

recipients from participating in police field work, the letters effectively ended the recipients' careers.

The Panel reviewed all of the *Brady* letters issued by the Department. There are several problems with the Department's use of these letters. First, a review of the circumstances leading to the letters issued thus far indicates an arbitrary and inconsistent use of the letters and a fundamental misunderstanding of the *Brady* doctrine. Further, in some instances, the Department sent out the letters for offenses reaching far back in an officer's career. The net effect of the Department's use of *Brady* letters has been the perception that they are used as an unfair and arbitrary means for imposing punishment that is not subject to review.¹¹⁵

Failure to report and the code of silence. The term "code of silence" refers to conduct on the part of officers who (1) fail to report misconduct on the part of fellow officers and, (2) support false statements by officers who cover-up their misconduct. It can also include retaliation against officers who do come forward to report misconduct.

While the term is used in relation to law enforcement agencies, the concept exists in every profession. In law enforcement, the concept is more complex. Officers depend on their fellow officers in life or death situations and are unwilling to risk this support by reporting incidents of minor lapses or judgment errors. The officers we spoke to believe that the code of silence dissolves when the allegation involves "real" misconduct. This is consistent with the results of our survey, in which the officers overwhelmingly disagreed that there is a code of silence that prevents officers from reporting criminal conduct. While officers believe that they recognize "real" misconduct when they confront it, the sheer number of acts of misconduct occurring in the Rampart Area by Officer Perez himself strongly suggests that some form of code of silence existed.

Chief Parks has appropriately responded by issuing Administrative Order 21, dated September 30, 1999, which provides that "it is a violation of . . . established Department Policy for any employee to make a false or misleading statement as defined in this Order. The Department also punishes officers for failing to report misconduct by another officer."

¹¹⁵ Consideration should be given to provide the Department with a General Counsel who could interface with prosecuting authorities on legal issues that impact the prosecution of criminal cases.

Strict discipline of officers who fail to report misconduct is a superficially attractive response. In practice, however, the threat of punishment for failure to report misconduct has reinforced the code of silence by deterring officers from coming forward. For a variety of reasons – including friendship, loyalty, fear of retaliation, and uncertainty regarding acceptable practice – officers who witness misconduct often fail to report it immediately, but may later reconsider their decision, particularly if they see further misconduct by the same officer. Punishing officers for failing to come forward immediately discourages them from reporting the conduct later, adding to the informal pressure to keep quiet. The Department compounds this problem by sometimes treating a failure to report more seriously than the underlying violation, even when the officer who originally failed to report the misconduct later came forward or answered truthfully in an investigation. Indeed, there are times in which an officer received a stricter penalty for failing to report misconduct than the officer who committed the misconduct. On occasion, the Department appears to have been more interested in determining the identity of an officer who filed an anonymous report than in investigating the allegation of misconduct itself.

Sensible guidelines regarding appropriate penalties could help to encourage officers to report misconduct. Chief Parks has made clear that any false or misleading statement by an officer constitutes misconduct, and affirmative deception by officers should result in severe penalties.¹¹⁶ Persistent failure to report serious misconduct should also result in heavy discipline, although in no case should the penalty for failure to report exceed the penalty for the underlying misconduct. Failing to report a less serious offense warrants a less serious penalty. Finally, the Department needs guidelines that allow it to deal sensibly with temporary failures to report even serious misconduct. The guidelines should recognize the informal pressures that can make it difficult for officers to report misconduct, and should treat temporary failures to report less seriously than persistent failures, particularly if the officer ultimately comes forward or answers truthfully and forthrightly in an investigation.

Officers interviewed by the Panel repeatedly emphasized that the most important weapon against the code of silence is supervision. Supervisors must model appropriate responses,

¹¹⁶ We note that the New York Police Department has adopted a policy of automatically terminating any officer caught lying.

emphasize judgment, facilitate officers coming forward to report misconduct, and guard against retaliation against officers who do come forward.

There are several other steps the LAPD can take to make its disciplinary system less vulnerable to the code of silence. First, the Department must make every effort to ensure that there is no retaliation against officers who come forward and report misconduct. Former Inspector General Katherine Mader reported that she observed numerous instances of retaliation against such officers who complained about misconduct by other officers. Members of the Panel also heard from officers who stated that they were subjected to harassment and retaliation. In fact, the discipline system itself may be used against those who come forward. Sometimes petty complaints will be filed against officers who violate the code of silence and substantial Department resources will be utilized to investigate the complaints, which are often kept open for lengthy periods.¹¹⁷

Second, steps should be taken to provide the Inspector General with the ability to promise confidentiality to officers who report misconduct. The confidentiality the OIG can currently promise is greatly limited, which is a disincentive for an officer to report misconduct to the OIG. The City Attorney has opined that the IG cannot promise confidentiality, and the City Attorney has obtained access to several files held by the OIG. The City Attorney believes the OIG must turn over any file upon the City Attorney's request.

Third, the Department should consider establishing a telephone hotline, operated by IAG or the Office of the Inspector General, that would allow officers to report misconduct anonymously. This would protect the officers who are unwilling to publicly report misconduct because of misplaced loyalty or fear of retaliation.¹¹⁸

Finally, the Department needs better statistics to allow it to track manifestations of the code of silence. The LAPD has tracked the number of officers serving as critical witnesses against other officers and reports this number has risen from zero in 1995 to thirty in 1999. But the Department does not maintain Department-wide and Division-by-Division statistics on, for

¹¹⁷ Interview of Katherine Mader (June 15, 2000).

¹¹⁸ Neither a confidential report to the OIG nor an anonymous report would, however, relieve an officer of his or her obligation to report the misconduct to the Department nor would it constitute "discovery" of the misconduct by the Department for purposes of triggering the running of the statute of limitations.

example, the number and disposition of administrative investigations in which the statements of officers on the scene confirmed or contradicted the statement of the officer under investigation; and the number and disposition of complaints alleging officers lied to protect each other or failed to report misconduct.

Recommendations

4.1. The Department should boost the staffing and funding of the Internal Affairs Group to allow the Group to investigate all complaints of serious misconduct as defined in a written guideline.

The LAPD must ensure not only that IAG has a sufficient *number* of investigators, but also that these investigators have the skills and experience necessary to handle the considerable challenges of police misconduct cases. We agree with the Board of Inquiry that IAG "should be allowed to handpick their personnel to ensure that the Department's best investigators are assigned to handle these sensitive, complex and all-too-often criminal cases."¹¹⁹ We also agree with the Board of Inquiry that "those selected for these assignments must be guaranteed retention of their advanced paygrade position and given preference of assignment upon completion of their IAG assignment."¹²⁰ To clear temporary backlogs, the Department should use retired law enforcement officers on a contract basis. The Department must ensure that all IAG investigators receive full clerical and technological support, including access to the Department's computer system. The Department should also investigate whether IAG's effectiveness and efficiency could be improved by providing investigators with computerized reporting software and with computers capable of running the programs.

4.2. The Department should ensure that the Internal Affairs Group has an effective, computerized system to track pending complaints and to ensure that investigations proceed in a timely fashion and are completed well before the expiration of any applicable statute of limitations.

This system should be fully integrated with the risk management systems we recommend elsewhere in this report. Accurate computerized reports, monitored by both the IAG and the Office of the Inspector General, would protect against inadvertent and/or intentional running of

¹¹⁹ BOI Report, at 337.

¹²⁰ *Id.*

statutes of limitations. The reports would also allow the Department to hold investigators and their supervisors accountable for failure to complete investigations in a timely manner.

4.3. The Office of the Inspector General should regularly audit disciplinary investigations to ensure they are properly conducted, and when appropriate, should monitor investigations as they proceed.

As we explain elsewhere in this report, to carry out these responsibilities, the OIG needs a substantially larger staff, stronger support from the Police Commission, and greater cooperation from the Department, including full and unfettered direct access to the Department's documents, files, and personnel.

4.4. The Department should develop detailed, written guidelines that allow the response to a complaint to vary depending on its seriousness.

The guidelines should address the handling of a complaint from its initial reception and recording to the imposition of punishment, and they should be reviewed and approved by the Police Commission. The guidelines should retain the current requirement that every complaint, no matter how minor or apparently frivolous, be documented and routed to IAG. But the extent of the documentation should vary depending on the seriousness of the complaint, as should the resources the Department expends investigating the allegations. The guidelines should also address the Department's treatment of an officer during the investigation and adjudication of a complaint, and that treatment, too, should vary according to the seriousness of the complaint. In particular, the mere filing of a complaint should not block an officer's advancement, unless the complaint alleges serious misconduct. The guidelines should be sufficiently detailed to assure officers and the community that serious complaints will be fully and vigorously investigated. Complaints of less severe misconduct should be processed in a manner that does not tax the Department's resources. The guidelines should also address which complaints will be investigated by IAG and which by the officer's Division, and should ensure that all allegations of serious misconduct are investigated by IAG.

4.5. The Board of Rights should consist of a captain, a civilian, and a retired law enforcement officer.

Having only one captain on the Board of Rights will reduce the drain on Department resources by 50 percent while at the same time enhancing the credibility and perceived fairness of the Board of Rights adjudicatory process.

4.6. Once a Board of Rights concludes that an officer has engaged in misconduct, the Chief of Police should determine the appropriate penalty, guided by formal criteria developed by the Department and approved by the Police Commission.

The written guidelines should be sufficiently detailed to assure officers and the public that penalties are imposed fairly and consistently. In particular, the penalty guidelines should make clear that length of service and rank are not grounds for leniency, and that all officers will be treated similarly. Concentrating the responsibility for imposing punishment in the hands of the Chief, instead of bifurcating it between the Board of Rights and the Chief, will make it easier for the Chief to ensure that penalties are applied consistently, will shorten Boards of Rights proceedings and reduce the associated drain on the Department's resources, and will clarify both the Chief's responsibility to impose discipline and the responsibility of the Board of Rights to adjudicate guilt or innocence impartially, based on its own, independent judgment. But concentrating the power to select punishment in the hands of the Chief will also make it even more imperative to guard against arbitrariness through detailed, written guidelines. And the Chief should make it clear that he expects the Board of Rights to act as an independent, adjudicatory body, that he will fully respect their findings, and that no Board of Rights member will be penalized, formally or informally, because of his or her vote on a question of guilt or innocence.

4.7. The Department should ensure that discipline is applied consistently and fairly throughout the Department.

In particular, the Department should not resume its practice of sending "Brady letters" to selected officers without developing procedures and formal, written criteria to ensure that the letters are sent only to personnel whose continued involvement in field operations genuinely and substantially jeopardizes future prosecutions, and to all such personnel.

- 4.8. The Department should develop formal, written guidelines that allow the penalty for failing to report misconduct to vary sensibly according to the severity of the failure, and that avoids deterring officers who initially fail to come forward from ever reporting the misconduct they witnessed.**

The guidelines should be reviewed and approved by the Police Commission. They should provide for heavy discipline in cases of persistent failure to report serious misconduct, and lighter sanctions for failing to report less serious misconduct, or temporarily failing to report serious misconduct, particularly for officers who ultimately come forward and truthfully and forthrightly answer questions from investigators. In no case should the punishment for failing to report misconduct exceed the punishment for the underlying violation.

- 4.9. The Department should develop statistical records that allow it to track manifestations of the "code of silence."**

The records should be fully integrated with the risk management systems we recommend elsewhere in this report, and should include, at a minimum, Department-wide and Division-by-Division statistics on the number and disposition of administrative investigations in which the statements of officers on the scene confirmed or contradicted the statement of the officer under investigation; and the number and disposition of complaints alleging officers lied to protect each other or failed to report misconduct.

CHAPTER 5

OFFICER-INVOLVED SHOOTINGS AND OTHER USES OF FORCE

Introduction and Summary

No police force can operate without the ability to use force, including deadly force, when circumstances make it necessary. But for policing to be effective and democratically acceptable, the use of force, particularly deadly force, must be strictly limited, carefully controlled, and fully accountable. Over the past several decades, officer-involved shootings and other uses of force by the LAPD have been repeatedly the subject of controversy, and the Department has taken significant steps to constrain and to monitor the use of force by its officers. Unfortunately, those steps have not been sufficient.

There is nothing wrong with the Department's written policies regarding the use of force. LAPD policy provides that an officer's use of force also "must be reasonable and necessary to protect others or themselves from bodily harm."¹²¹ An LAPD officer may use deadly force when it appears reasonably necessary: (1) to protect himself or others from an immediate threat of death or serious bodily injury (Immediate Defense of Life, "IDOL" situations); (2) to prevent a crime where the suspect's actions place persons in jeopardy of death or serious bodily injury; or (3) to apprehend a fleeing felon for a crime involving serious bodily injury or the use of deadly force where there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed.¹²² An officer may exercise deadly force only when "all reasonable alternatives have been exhausted or appear impracticable."¹²³ Reports generally must be filed whenever an officer "discharges a firearm, whether accidentally or intentionally, and whether or not anyone is hit or injured by the shot,"¹²⁴ and whenever an officer "uses a non-lethal control device or any physical force to compel a person to comply with the employee's direction, overcome resistance by a suspect during arrest or detention, or defend

¹²¹ Los Angeles Police Department Manual 2000, Volume I, § 240.10 (2000) (hereinafter LAPD Manual).

¹²² *Id.* §§ 556.40.

¹²³ *Id.*

¹²⁴ *Id.*, Volume 4, § 244.50.

any person from an aggressive action by a suspect."¹²⁵ These rules are more restrictive than the rules in place in most other police forces examined by the Panel, and they tend to be used as a model for police agencies throughout the country.

Although the Department's written policies regarding the use of force are admirably clear and restrictive, the Department's methods of investigating and adjudicating officer-involved shootings (OIS) and uses of force (UOF) are flawed. There are structural problems in the way in which LAPD is organized to investigate such incidents. These problems include a lack of clarity in the roles performed by OIS/UOF investigators; the impact of the Los Angeles City Charter's one-year limitations period on administrative investigations; the possible tainting of criminal investigations by compelled officer statements; and deficiencies in the manner in which OIS/UOF investigations are conducted and reviewed internally.

Other flaws reflect broader problems addressed elsewhere in this report: weak civilian oversight, a culture of insularity and top-down control, and a persistent failure to implement rudimentary systems of risk management. Historically, the Department has resisted scrutiny and review from outside sources, and its approach to OIS/UOF matters reflects that resistance. The Department essentially handles OIS/UOF incidents as "in-house" matters mostly insulated from effective outside scrutiny, whether from the Police Commission and the Inspector General in administrative investigations, or from the District Attorney in criminal investigations.

Except where they conflict with our own recommendations, the Panel concurs with the recommendations of the Board of Inquiry regarding officer-involved shootings and use of force incidents. In particular, we join the Board of Inquiry in urging expansion of Internal Affairs Group, adoption of an enhanced tracking system and modification of the Charter's one-year limitations period for administrative charges. As explained in this chapter and elsewhere in this report, these are much needed changes.

To enhance the LAPD's ability to detect Rampart-like corruption and misconduct through its own internal investigations, other changes are necessary as well.¹²⁶ The LAPD must:

¹²⁵ *Id.* § 245.05.

¹²⁶ The OIS Unit of Robbery-Homicide Division (RHD) has drafted a revised manual making more clear the procedures by which investigations concerning OIS are conducted. This draft manual, for which RHD must be given great credit, also anticipates some, but not all, of the Panel's concerns.

give priority to criminal investigations by placing such investigations in the hands of experienced LAPD investigators dedicated to identifying potential criminal conduct and reporting it not only to the Chief of Police, but to the District Attorney's Office for criminal prosecution; reassign criminal investigative responsibilities to the Internal Affairs Group; form a new Use of Force Division to conduct administrative investigations of use of force incidents; have UOF investigators work closely with the Risk Management Division and Training Group to identify at-risk officers and enhance tactics training; and improve communications and coordination with the District Attorney's Office to enhance the Department's credibility with respect to its investigation of officer-involved shootings and uses of force.

Methodology

To assess the LAPD's handling of officer-involved shootings and use of force incidents, members of the Panel interviewed LAPD officers in Robbery-Homicide Division (RHD) and its Officer-Involved Shooting Section (OIS), Detective Headquarters Division (DHD) and its Law Enforcement Related Injury Investigation Section (LERII), and Human Resource Bureau (HRB), as well as certain commanders and Divisional captains. We analyzed RHD and DHD files of OIS/UOF incidents, and LAPD Division files of UOF incidents. We attended Use of Force Review Board (UOFRB) sessions and reviewed UOFRB reports. We interviewed members of the Police Commission, its investigators, and staff; along with representatives of the Los Angeles City Attorney's Office, the Los Angeles County District Attorney's Office, the Los Angeles Police Protective League (LAPPL, or the League), and a wide range of other police agencies, including the Chicago Police Department, the Huntington Beach Police Department, the Los Angeles Sheriff's Department (LASD), the New York Police Department (NYPD), the Orange County District Attorney's Office, the Orange County Sheriff's Department, the Santa Ana Police Department, the San Diego Civilian Law Enforcement Review Board, the San Diego Police Department, the San Diego Sheriff's Department, the San Francisco Police Department, and the San Francisco Office of Citizen Complaints. We participated in community outreach discussions with the Feminist Majority Foundation, California Women's Law Center, faith leaders who attended a roundtable sponsored by the Southern Christian Leadership Conference, and certain civil rights attorneys; and we attended a two-day forum discussing the Rampart scandal at Loyola Law School in September 2000.

Findings

1. The Department seriously compromises criminal investigations of officer-involved shootings and major use of force incidents by commencing its administrative investigation first.

Three separate sections within LAPD conduct administrative investigations of UOF incidents, depending on the type of force used and the degree of injury that is sustained. LAPD typically begins an administrative investigation of an OIS or a major use of force¹²⁷ before commencing an investigation of the possible criminality of the officer's conduct. RHD, in the case of an officer-involved shooting, or DHD, in the case of a major use of force requiring hospitalization, responds to the scene and begins an administrative investigation of the officer's conduct. Non-lethal use of force incidents that do not result in hospitalization are investigated by a supervisor from the officer's Area or Division¹²⁸

In a major use of force, the OIS Section of RHD or the LERII Section of DHD takes control of the scene, collects all evidence, and interviews and conducts walk-throughs of the scene with the officers involved. If the incident involves an officer-involved shooting, a three-person RHD OIS team and a RHD criminal team responds, and the District Attorney's Office is immediately notified.¹²⁹

If the investigators believe the officer's actions may have been criminal, they are to notify the Chief of Police (the Chief). The Chief decides whether to turn the investigation over to IAG¹³⁰ and to discontinue the administrative investigation.¹³¹ Since the initial decision as to whether the Chief of Police should be contacted is in the sole discretion of the RHD or DHD

¹²⁷ By "major use of force," we mean a use of force that results in the victim's hospitalization. RHD investigates all officer-involved shooting hits, intentional non-hits (excluding animal shootings), tactical accidental discharges, non-tactical discharges resulting in injury, custodial deaths, uses of upper-body control holds and other law enforcement activity related deaths. DHD investigates animal shootings, non-tactical, non-hit accidental discharges, and uses of force resulting in hospitalization, except those that are investigated by RHD. LAPD Officer-Involved Shooting Manual, Chapter 3, at 15 (1995) (hereinafter LAPD OIS Manual); LAPD Manual, Volume 3 § 794.10.

¹²⁸ LAPD OIS Manual, Chapter 3, at 15; 3 LAPD Manual § 794.10.

¹²⁹ LAPD OIS Manual, Chapter 5 at 33.

¹³⁰ *Id.*, Chapter 3, at 17.

¹³¹ *Id.*

teams, this means that RHD or DHD investigators have the responsibility to make a decision that may remove them from the investigation altogether. From the start, this blurs the responsibilities of the RHD or DHD investigators: they are charged with conducting both an administrative investigation and, in effect, a preliminary criminal investigation. Further, although IAG is supposed to conduct the investigation once the Chief decides that there are grounds to believe an officer's conduct may be criminal, IAG may refer the investigation back to RHD or DHD, further blurring the lines of responsibility for conducting criminal investigations.¹³²

None of the other police agencies examined by the Panel routinely commences administrative investigations before criminal investigations. Other departments either conduct the criminal investigation first – the practice, for example, of both the Los Angeles County Sheriff's Department and the New York Police Department¹³³ – or they conduct the two investigations concurrently from the start.

The LAPD practice creates serious problems. First, it creates the risk that the statute of limitations on criminal misdemeanor uses of force will run before completion of the LAPD investigation. Misdemeanors in California have a one-year statute of limitations.¹³⁴ Many excessive use of force cases, if criminal, could be filed as misdemeanors.¹³⁵ The Department tries to complete its administrative investigation within six months, but Department officials told the Panel that the process often takes the better part of a year or longer. In theory, once a determination is made that a case merits criminal investigation, the criminal investigation is supposed to begin immediately. In reality, however, the Panel was told that, except in high-

¹³² Interview of Captain Jim Tatreau and Detective William Holcomb (Apr. 18, 2000).

¹³³ In New York, if the underlying conduct could be charged criminally (that is, would constitute a crime and not simply a violation of internal policy), there is *no* limitations period on when administrative charges have to be filed and served. This allows NYPD to take administrative action when serious misconduct is discovered years after it occurred.

¹³⁴ Cal. Penal Code § 802.

¹³⁵ Cal. Penal Code § 149 makes the assaulting or beating of any person by a public officer, without legal cause and under color of authority, a crime that can be classified as either a felony or misdemeanor. Simple assault, which is a misdemeanor under Cal. Penal Code § 241, could also be charged in such cases. A third example of job-related misconduct that creates potential misdemeanor liability comes from Cal. Penal Code § 146, concerning false arrest or imprisonment charges against a public officer.

profile cases or cases of clear criminality, the criminal investigation is often delayed until after the administrative investigation has been completed.

The LAPD practice of starting the administrative investigation first also creates a more fundamental problem, stemming from the right that police officers share with all citizens to be free from compelled self-incrimination. Under the California Supreme Court's decision in *Lybarger v. City of Los Angeles*, police officers may be threatened with dismissal for refusing to provide statements about the conduct of their official duties to supervisors or internal investigators.¹³⁶ But a statement given after such a warning – colloquially known as a "*Lybarger* admonition" – is inadmissible in any criminal prosecution of the officer, as is any evidence that investigators obtain through use of the statement.

Under LAPD rules, RHD or DHD investigators reporting to the scene of an OIS or major use of force are not allowed to speak to the officers (except to obtain a legally required "public safety" statement) until their attorney from the Los Angeles Police Protective League arrives.¹³⁷ On advice of LAPPL counsel, nearly all LAPD officers refuse to speak until after they receive the *Lybarger* admonition, which investigators then give routinely. Should a criminal investigation ensue at some later point, neither the prosecutors nor the criminal investigators may make use of the compelled statement, and any exposure of prosecutors, criminal investigators, or even witnesses to the statement may taint the entire investigation and thus jeopardize a prosecution.

If the LAPD, like the LASD and the NYPD, conducted its criminal investigation first, this danger would not arise, because no *Lybarger* admonitions would be given until after the criminal investigation was concluded. Moreover, the Panel believes that many officers would eventually speak voluntarily to the Department's investigators, rather than allow the criminal investigation of their conduct to proceed without their input. Other California police agencies reviewed by the Panel do not encounter *Lybarger* demands as frequently as LAPD investigators do. These agencies conduct their criminal investigations first, or at least simultaneously with their administrative investigations, and the vast majority of involved officers want to have their stories heard.

¹³⁶ 221 Cal. Rptr. 529 (1985).

¹³⁷ Interview of Detective Holcomb and Capt. Tatreau, *supra*.

The absence of voluntary statements by LAPD officers in part reflects the distrust that pervades relations between the Department's management and its rank and file officers, and the usually combative stance of the League – matters we address elsewhere in this report. But the LAPD's routine administration of *Lybarger* warnings at the outset of investigations into officer-involved shootings and major uses of force makes an officer's refusal to talk without such a warning costless to the officer. If administrative investigations and *Lybarger* warnings were routinely delayed until the completion of the criminal investigation, refusing to talk without that warning would carry a serious cost for the officer: the inability to explain what happened. The experience of other departments suggests that it is a cost many if not most officers would be unwilling to pay.

Unfortunately, the LAPD cannot currently delay its administrative investigations until the completion of the related criminal investigations because the City Charter requires the Department to file administrative charges against an officer within one year of the date of discovery of the officer's conduct.¹³⁸ Changing this requirement would eliminate one of the major ways in which the criminal and administrative investigations, both of which are obviously important, work at cross purposes under the present system. It would also bring the LAPD closer in line with other police departments. In New York, for example, administrative charges not involving criminal conduct can be served on the officer within 18 months following the incident; if the underlying officer misconduct could be charged criminally (again, the conduct would constitute a crime rather than a simple violation of policy), there is no limitations period during which administrative charges have to be filed and served.

Without a Charter amendment tolling the limitations period for administrative charges for the duration of a related criminal investigation, the Department will be unable to delay its administrative investigation until after the criminal investigation is completed. Even without such a Charter amendment, however, there is no good reason for the Department to delay its criminal investigation until after completion of the administrative investigation. If the criminal investigation cannot be conducted first, the two investigations should be commenced

¹³⁸ Charter § 1070(c).

concurrently.¹³⁹ In many cases, particularly where the matter involves a potential misdemeanor, the investigators should be able to expeditiously complete the criminal investigation, leaving sufficient time to complete the administrative investigation and review process.

To avoid tainting the criminal investigation with statements obtained after *Lybarger* admonitions, the two investigations would need to be separately staffed, and care would need to be taken to ensure the criminal investigators are not exposed to evidence obtained through use of officers' compelled statements. Further, until such time as there is a Charter amendment, if the evidence suggests that there may be criminality or substantial misconduct on the part of the officers, separate groups within IAG should conduct both the administrative and criminal investigation. Maintaining both investigations within IAG will reduce the problems that currently result from the diffusion of responsibilities and lack of clearly defined roles. It will also lessen the possibility that investigators conducting the administrative investigation will prejudice the investigation into possible criminal wrongdoing. Separate groups are required to avoid the possible taint of the criminal investigation by *Lybarger*-compelled statements.

2. The Department also seriously compromises its criminal investigation of officer-involved shootings and major uses of force by failing to ensure that all such investigations are conducted from the very start by the Internal Affairs Group.

The Christopher Commission was created in response to the beating of Rodney King and the resulting renewal of controversy over police violence in Los Angeles. The Commission, which "sought to examine all aspects of the law enforcement structure in Los Angeles that might cause or contribute to the problem of excessive force," urged that *all* complaints relating to excessive force (including improper tactics) should be investigated by IAG, rather than at the officer's Division.¹⁴⁰ This has not happened. Further, IAG does not even investigate all officer-involved shootings or major uses of force.

Although current procedures direct RHD or DHD investigators to contact the Chief of Police if they suspect criminal conduct by the involved officers, the Panel has been told that

¹³⁹ Any duplication of effort that may result is warranted by the benefit of ensuring that the integrity of a potential criminal case is preserved. This Panel found examples of such a dual presence in its analysis of other departments, an indication that the commitment of resources is perceived to be both workable and worthwhile under the circumstances. In most cases, IAG investigators will be able to determine quickly if IAG's continued involvement is needed.

¹⁴⁰ Christopher Comm. Report, at ii.

sometimes no referral is made in cases that clearly indicate *serious* misconduct on the part of an officer, or that the call comes too late for IAG to have meaningful participation in the crime scene investigation. IAG is then reduced to the role of simply reviewing the investigation done by RHD and DHD.

By way of comparison, the Internal Affairs Bureau (IAB) of the NYPD rolls out to the scene of all OIS and major use of force incidents, and takes part in the initial investigation of these matters. Should IAB determine that the incident does not involve criminality or substantial misconduct, IAB withdraws, and a Borough "Shoot Team" conducts the investigation.

Not only is the LAPD's Internal Affairs Group often absent from the scene of officer-involved shootings and major uses of force, even when IAG is called in, resource shortages often force it to refer investigations back to RHD or DHD.¹⁴¹ This further blurs the responsibilities of the RHD and DHD investigators. Even under the new draft OIS manual prepared by RHD, the Chief has the option to direct RHD to continue with the administrative investigation first, thus postponing the criminal investigation until later.¹⁴²

By failing to ensure that every criminal investigation of an OIS or major use of force is conducted from the very beginning by Internal Affairs Group, the LAPD seriously undermines the quality of these investigations. As the Board of Inquiry recognized, investigations of Department personnel are among the most sensitive and complex tasks undertaken by the Department. Particularly when those investigations involve a potentially criminal use of force, it is critical that they be performed from the outset by specialized personnel undistracted by other duties at the scene, and whose responsibilities are not blurred.

This does not happen in Los Angeles, in large part because the LAPD's Internal Affairs Group has never received the necessary resources. The resource shortages faced by IAG are not simply a matter of money and staff positions. Investigating shootings and major uses of force requires special skills and expertise. Elsewhere in this report we describe the difficulty IAG has had recruiting skilled and experienced investigators. This difficulty undercuts IAG's entire mission, and poses a particularly serious obstacle to the Department's ability to credibly and

¹⁴¹ Interview of Detective Holcomb and Captain Tatreau, *supra*.

¹⁴² Robbery-Homicide Division Draft Revised Officer-Involved Shooting Manual § 8.2, (2000).

effectively investigate shootings and major uses of force by its sworn officers. Indeed, as we describe below, relegating the initial investigation of officer-involved shootings and major uses of force to RHD and DHD has resulted in serious deficiencies.

3. The Department's investigation of officer-involved shootings and major uses of force too often is lax and fails to treat these cases as potential criminal matters.

Because the LAPD's Internal Affairs Group does not roll out to the scene of officer-involved shootings and major uses of force, the initial investigation has been left to RHD or DHD, units of the Department that are supposed to retain responsibility for the case only if there is no reason to suspect that officers may have acted criminally. The RHD or DHD detectives also are charged with making an initial determination whether to refer the case to the Chief of Police, who may direct IAG to conduct a criminal investigation. As we describe above, however, in cases where such a referral is appropriate, it often comes too late, or not at all.

The failure to refer cases promptly for criminal investigation reflects broader problems. RHD and DHD too often fail to approach these cases as potential criminal matters, and their investigative techniques are often lax and inadequate. RHD and DHD come into many investigations of officer-involved shootings or major uses of force with the assumption that there will be no criminal investigation, only an administrative review, and proceed accordingly.

The OIS Investigative Handbook¹⁴³ provides no guidelines as to what sort of forensic evidence should be collected, what sort of laboratory analyses should be performed, and what sort of analyses should be included in files. As a result of no clear direction to RHD and DHD investigators to handle evidence in a manner appropriate for its use in a potential criminal case, in some of the OIS and UOF files reviewed by the Panel, the collection of physical evidence by RHD and DHD had the earmarks of administrative, rather than potentially criminal, investigations. Accordingly, thorough lab and forensic work may not have been done on every file, including some of the most controversial shootings from the Rampart Area. Since early this year, the Department has required the Scientific Investigation Division (SID) to roll out to the scene of every OIS. For other major uses of force, however, the decision to involve SID still is left to the discretion of the supervising detective at the scene, be it from RHD or DHD, and often entails nothing more than use of SID's Photographic Section.

¹⁴³ LAPD OIS Manual, *supra*.

Similarly, the interviews conducted by RHD and DHD in officer-involved and use of force cases often reflect a failure to approach these cases as potential criminal matters. As discussed above, RHD and DHD detectives routinely use *Lybarger* admonitions to obtain statements from officers, potentially tainting any subsequent criminal investigation, and minimizing the chance that officers will decide to speak voluntarily. Moreover, the questioning of officers by RHD and DHD detectives is not always as probing as would be expected in a criminal investigation or in an investigation that might become criminal.

The OIS Section of RHD and the LERII Section of DHD routinely tape-record interviews with officers. The Panel had the opportunity to review several dozen of these tapes from the OIS section of RHD. While many interviews appear to have been properly conducted, with straightforward questions and reasonable follow-ups, this was not always the case. In a troubling number of instances, RHD detectives used leading questions, suggesting favorable answers on the part of the officers involved in a shooting or use of force incident. On other occasions, the detectives failed to follow up on vague statements or inconsistencies in statements given by officers, or asked bland, open-ended questions, allowing for what sounded like a narrative. This practice of non-incisive questioning was frequently exacerbated by the presence of a LAPPL lawyer or representative, who, on more than one occasion, was heard to interject leading questions on the officer's behalf, such as, "you feared for your life, right?" or, "and you were protecting your partner, weren't you?" Finally, on at least a few occasions, tapes sounded as though they had been stopped and restarted during questioning of witnesses. This raises the possibility that material information was excluded, that answers were prepared during unrecorded intervals, or that only a selective recording of statements took place. Such practices may serve to undermine the integrity of investigations, may result in preparation of summaries based on inaccurate information, and fail to advance the goal of Departmental self-improvement.

The role of LAPPL lawyers at the scene of OIS/UOF incidents was itself a subject of consideration by the Panel. Counsel for LAPPL told the Panel that the same LAPPL lawyer is permitted to represent all officers involved in a shooting or UOF incident. Prior to 1997, the LAPPL lawyer was permitted to meet with all involved officers in a group prior to those officers giving statements, compelled or otherwise, to the RHD or DHD investigators. This practice raised the possibility of one officer's recollection of events being influenced by the recollection

of other officers, or, at worst, stories being coordinated between or among officers involved in a particular incident. The Panel is informed that this practice was stopped. But the mere presence of the same League lawyer at the interviews of each of the officers raises the possibility that the lawyer may help the officers avoid contradicting each other.

In addition, pre-interview walk-throughs are not tape-recorded or otherwise preserved. It is the policy and practice of RHD and DHD to walk through the scene, after the scene has been secured, separately with each officer involved in a particular incident, before taking a recorded statement from the officer.¹⁴⁴

Detectives from RHD's criminal team and DHD do interview civilian witnesses as a routine matter in officer-involved shooting and use of force cases. The Panel was unable to determine, however, whether or not all possible civilian witnesses are interviewed during every investigation. As a general matter, neither officer statements nor witness statements are transcribed. In addition, the Panel was told that the investigators often give greater credence to the statements of the officers rather than the civilian witnesses based upon the officer's training and observational skills. Such deference does not, however, factor in the possibility of bias. Police Commissioners, Commission staff, and the Inspector General's Office expressed concern to the Panel regarding the impartiality of the investigations, the seeming bias of the investigating detectives, the handling of civilian witnesses and their testimony, and the tactics used by the detectives during interviews.

In determining whether a particular use of force is in or out of policy, the LAPD's Use of Force Review Board ordinarily relies entirely on the file prepared by the investigators, supplemented on occasion by oral statements from DHD or RHD personnel.¹⁴⁵ Unfortunately, in a review of several dozen OIS files from RHD, including the files of some of the most controversial shootings in the Rampart Area, the Panel repeatedly found deficiencies. Audio tapes of witness or officer interviews were not included in the file, although the UOFRB can request the tapes during its deliberations. Some interviews were entirely omitted from the files. The interview summaries prepared by RHD sometimes conflicted with the tape recorded

¹⁴⁴ Interview of Detective Holcomb and Captain Tatreau, *supra*; interview of Detective Holcomb (Aug. 29, 2000); LAPD OIS Manual, at 18.

¹⁴⁵ Interview of Deputy Chief Julius I. Davis, Chair, UOFRB, (May 10, 2000).

statements, and the incident summaries prepared by RHD sometimes referred to facts not supported by evidence in the files. The reports do not comment on the credibility of witnesses, conflicts in the statements of the officers, or conflicts between officer statements and physical evidence or scene diagrams. These deficiencies mean the UOFRB, the Chief, the Police Commission, and, in some cases, the District Attorney, must do their review based upon an insufficient paper record, often with no access to the original source information.

Clearly, the investigative structure employed by the LAPD in addressing officer-involved shootings and use of force incidents should reflect a commitment to efficient and appropriate assessment and response to such incidents. The current system falls short in this regard. The situation merits the creation of a new Division within the LAPD that would assume responsibility, in lieu of RHD and DHD, for conducting administrative investigations of officer-involved shootings and major uses of force in those situations where IAG involvement is not needed. If staffed with the experienced and trained detectives that this category of investigation deserves, the new Division would improve the overall quality of OIS/UOF investigations. It would ensure a focused and thorough response within the Department and would avoid inefficient overlap between different investigative entities. Moreover, the new Division would send a clear signal to the public that the LAPD is able and determined to perform a meaningful review of all OIS and UOF.

4. Civilian oversight of officer-involved shootings and major uses of force by LAPD officers remains mostly symbolic.

In theory, all officer involved shootings and major uses of force by LAPD officers are subject to civilian review. Each such incident is reviewed first by the LAPD's Use of Force Review Board, composed of the Commanding Officer, Human Resources Bureau, the Commanding Officer, Operations-Headquarters Bureau; the Special Assistant to the Chief of Police; a peer member of the officer involved in the incident; and the Commanding Officer of the Bureau to which the individual officer is assigned. The UOFRB examines the investigative file to determine whether the officer's conduct was in- or not in policy and whether additional training is required. The Board may recommend that no action be taken against the officer; it may recommend that the officer receive additional training; or it may recommend administrative disapproval. The Police Commission is represented at the UOFRB hearing by members of the Special Services Unit (SSU), part of the Commission's staff comprised of civilian employees.

The UOFRB has 60 days to convene and make its recommendation. It then forwards its recommendation to the Chief of Police. The Chief of Police has 30 days to evaluate the recommendation and determine whether he agrees or disagrees with it.¹⁴⁶ The UOFRB's report and the Chief of Police's decision are then forwarded to the Police Commission.¹⁴⁷ SSU reviews the report and the underlying file, and then prepares a short memorandum to the Police Commission summarizing the incident and raising questions or concerns.¹⁴⁸ The Office of the Inspector General and the Executive Director review the file, including the SSU memorandum, but does not prepare their own memorandum to the Commission in most cases. The Police Commission has the final say as to whether the OIS or UOF was in policy or not, although the City Charter allows only the Chief of Police to impose discipline¹⁴⁹ – subject in some cases to review by a Board of Rights,¹⁵⁰ a procedure we discuss elsewhere in this report.

As we discuss above, this process is compromised in some cases by deficiencies in the investigative file submitted to the UOFRB. In addition, there are fundamental problems with the process by which the Police Commission reviews the conclusions of the UOFRB and the Chief of Police. Until they are corrected, these problems will continue to prevent effective civilian review of shootings and major uses of force by LAPD officers.

First, the Commission's representatives – both SSU and the Office of Inspector General – are permitted to attend the UOFRB hearing, but may not ask questions, and are excluded from the deliberations.¹⁵¹ These restrictions seriously undermine the efficiency of the Commission's review. The exclusion of Commission staff from the deliberations is a policy by Chief Parks,

¹⁴⁶ *Id.* If the Chief of Police does not concur with the UOFRB, the report is returned to the UOFRB where it is revised to reflect the Chief's findings before it is forwarded to Police Commission staff. In those instances where a dissenting report is generated by members of UOFRB, it is forwarded as well. Interview with Inspector General Jeffrey C. Eglash (June 5, 2000).

¹⁴⁷ Interview of Deputy Chief J.I. Davis, *supra*.

¹⁴⁸ Interview of former Officer in Charge, Police Commission SSU, J. Soong (Apr. 20, 2000).

¹⁴⁹ It is anomalous for the Commission to have the final decision regarding whether a shooting is in policy, but have no authority to impose or mandate discipline for a shooting it finds to have been not in policy.

¹⁵⁰ Interview of Deputy Chief J.I. Davis, *supra*.

who defended the policy to the Panel on the grounds that the UOFRB is making recommendations to him, and that the presence of outside observers inhibits the candor of the Board's discussions. Ultimately, however, the Commission and not the Chief determines whether a shooting complied with Department policy. Furthermore, the Panel is not convinced that the presence of representatives from SSU or the Office of Inspector General would impair the quality of the Board's discussions; if anything, it may make Board members more careful and thoughtful.

Second, the severe understaffing of the Commission – a matter addressed elsewhere in this report – particularly hobbles its review of shootings and major uses of force. The OIG lacks the resources to effectively monitor and review the Department's investigation of these cases. The effectiveness of SSU, moreover, is compromised by its separation from the Office of the Inspector General and by the nature of its staffing. SSU is staffed by civilians who often lack law enforcement experience. This means they bring a valuable outside perspective to their work, but it also means they may have difficulty spotting issues and understanding the circumstances described in the RHD or DHD report. The lack of prior law enforcement experience is exacerbated by high turnover. Because of the nature of the City's civil service system, a civilian employee typically transfers out of the SSU (and, indeed, out of the LAPD) to another City agency after only a few years. The vacancy then typically is filled with an employee transferring in from another City agency, who is likely to have no previous law enforcement administrative experience. Additionally, training of the Commission's civilian staff appears to be inadequate. New staff members of SSU receive training in LAPD tactics and firearms, and the unit occasionally arranges for them to be called to the scene of an officer-involved shooting. For the most part, however, SSU employees receive only on-the-job training.¹⁵² SSU would likely be more effective if it was integrated into the OIG, but reorganization can only do so much. The resources devoted to civilian oversight of these cases are simply insufficient.

Third, even with additional resources the Commission will be hard pressed to engage in meaningful review of shootings and major uses of force unless it has more lead time. Files in

(continued from previous page)

¹⁵¹ Interview of Inspector General Eglash, *supra*; Interview of J. Soong (June 5, 2000).

¹⁵² *Id.*; Interview of Clifford Weiss, former Officer in Charge, Police Commission Policy Group (July 10, 2000).

these cases, together with the memoranda from SSU and the OIG, are forwarded to Commission members on the Wednesday before their weekly meeting the following Tuesday.¹⁵³ The Commissioners are to review these materials in advance of the meetings. Given the Commissioners' part-time status, it can be difficult for them to find the time to thoroughly review the materials regarding each OIS before each meeting.¹⁵⁴ Nor, often, can the matter be deferred to a subsequent meeting, given the Charter-mandated one-year period on administrative charges against LAPD officers. A common complaint voiced by Commissioners and the OIG is the frequency with which OIS reports are delayed such that the Commission does not have adequate time to review the OIS prior to the one-year deadline.

Fourth, the Commissioners receive a report containing an officer's disciplinary history, past uses of force, and record of pursuits only *after* determining that a shooting is not in policy. The officer's past record is considered solely for the purpose of determining whether the officer should be referred to the LAPD's Risk Management Committee.¹⁵⁵ As a result, the Commission cannot consider the officer's history when, for example, resolving issues of credibility.

In addition, a Commissioner and the Inspector General have expressed concern over the limitations imposed by the tripartite review of officer-involved shootings into separate categories of tactics, drawing of the weapon, and the use of force. This concern arises when the tactics used by an officer are seriously flawed such that the officer places himself or herself in a situation when the use of deadly force becomes necessary to protect the officer's own life. In these instances, the shooting is deemed to be in policy, even though the tactics were not.

In part due to these obstacles – and in part due to more general defects in civilian review of the LAPD, discussed earlier in this chapter and elsewhere in this report – meaningful civilian oversight of shootings and major uses of force by LAPD personnel has been at best sporadic. The Commission reviewed 470 officer-involved shootings from 1995 to 2000, occasionally requesting additional information, but ultimately agreeing with the findings of the Chief of Police *in every instance* – a pattern broken only in February 2000, when the Police Commission

¹⁵³ Interview of Commissioner Dean Hansell (Apr. 26, 2000).

¹⁵⁴ Interview of Commissioner Raquelle de la Rocha (June 9, 2000).

¹⁵⁵ Interview of Inspector General Eglash, *supra*.

rejected, by a vote of three to two, the Chief's conclusion that the highly publicized shooting of Margaret Mitchell had been in policy.¹⁵⁶

Civilian review of shootings and major uses of force by LAPD officers has been frustrated not only by the Police Commission's inability to exercise effective oversight in individual cases, but also by the failure of the Chief of Police to follow the instructions of the Commission, and the failure of the Commission to insist that its instructions be followed. For example, the Commission approved disciplinary guidelines in June 1997 requiring severe punishment for officers engaging in excessive use of force or abuse of a firearm,¹⁵⁷ but Chief Parks, upon taking office, cited his Charter-mandated authority over discipline and disregarded the guidelines. The City Attorney supported the Chief's claim that the Commission did not have the authority to establish parameters for appropriate discipline for varying degrees of misconduct. The Commission acquiesced in this decision. The Commission has not taken action to reverse the unilateral decision by the Chief of Police to exclude its staff from observing UOFRB deliberations.

5. The Department lacks standard protocols for investigating less serious uses of force by officers and, when appropriate, referring them for prosecution.

In cases of non-lethal uses of force that do not require hospitalization, LAPD supervisors told the Panel that the Department's current practice is to conduct the investigation at the Division level whether based upon an officer's self-reporting of a use of force incident or a public complaint. These "less serious" UOF matters greatly outnumber major uses of force and officer-involved shootings, and are of great concern to many members of the community. Indeed, investigation into these matters may in many cases be initiated by public complaints. It is essential that these matters are handled in a way that is both effective and fair in its treatment of the officers and the affected members of the community. Moreover, because these investigations are conducted at the Division level, an officer's direct supervisor may be the sole or primary investigative agent. It is, therefore, particularly important to guard against actual or

¹⁵⁶ Susan Breck, at 64, 118. Not all of the 470 shootings between 1995 and 2000, of course, were found in policy by the Chief.

¹⁵⁷ See Matt Lait, *LAPD Board Adopts New Discipline Rules*, Los Angeles Times, June 25, 1997, at A1.

apparent bias in the handling of the investigation, and in the decision whether to refer the case for prosecution.

Unfortunately, the Department lacks any standard protocol for these investigations, and the procedures significantly differ from Division to Division. In certain instances in some Divisions, a sergeant who was at the scene and witnessed the use of force will be assigned the responsibility to conduct the investigation, which may call into question the objectivity of the investigation. In each case, it is the captain who evaluates the use of force to determine whether it was in policy or not. Each Division appears to articulate different factors in arriving at the determination regarding the propriety of the use of force. Nor are there clear rules regarding when and how these matters should be referred for prosecution. Prompt referral is particularly crucial in cases of less serious uses of force, given California's one-year statute of limitations for the prosecution of misdemeanor offenses. Finally, there is no independent oversight into the manner in which the Divisions investigate and adjudicate use of force incidents. This is particularly troubling. An independent inspection and audit would encourage supervisory accountability for the Division's failure to comply with use of force policies and to render appropriate use of force determinations.

6. The Department fails to promptly analyze officer-involved shootings and major uses of force for training and risk management purposes.

The current structure of OIS/UOF investigations delays the imposition of remedial action in cases where the officer's conduct raises training or risk management issues. There are no protocols for providing the command staff with an early review of an officer-involved shooting or major use of force. The Department formerly required investigating officers to submit a preliminary written summary of such incidents to the Chief of Police within ten days of their occurrence.

Further, there are no protocols for reviewing such incidents for risk management or training purposes. Rather than confront these serious issues immediately, the current system allows months, or in some cases years, to elapse between the date of the incident and the imposition of any remedial measures. Unlike other agencies contacted by the Panel – including the Chicago and Santa Ana Police Departments, and the Los Angeles County Sheriff's Department – the LAPD does not make a determination as to whether additional training or other remedial steps are needed for the individual officer or within the LAPD as a whole, until after the

Department has completed its administrative investigation into whether the OIS or UOF was in- or not in policy – a process that by policy can last six months, and in practice often lasts much longer.¹⁵⁸ By that time, any additional training that is ordered is more likely to be considered punitive in nature by the involved officer.

In contrast, other police organizations convene an administrative review meeting within a few days of a shooting or major use of force. The purpose of this review is to determine in a timely fashion whether additional training is needed, whether other risk management issues are implicated, and whether an officer should be confined to desk duty pending the outcome of an administrative or criminal investigation. Where appropriate, training sessions are implemented immediately and are not considered punitive by the relevant departments or the officers. This approach allows the affected department and the officer to learn from any potential mistakes, to address problems promptly, and to reduce the risk that the mistakes will be repeated. The LAPD should make a similar commitment to timely identification and resolution of individual or widespread shortcomings in training or tactics.

The Commanding Officer of LAPD's Training Group told the Panel he believes that further training is only appropriate after the administrative investigation is complete and when recommended by the Use of Force Review Board. The Commander's views are clearly at odds with the overwhelming majority of police departments the Panel interviewed, and seems inconsistent even with the way that the Divisions of LAPD handle minor UOF cases. When such an incident arises, it is common for the officer to get additional training from the Area Training Coordinator shortly after the incident occurs, if necessary in light of his or her conduct. Why this sensible approach is disregarded in more serious cases is not clear.

7. The Department fails to collect basic information about officer-involved shootings and uses of force.

Elsewhere in this report we describe the Department's persistent and costly failure to implement basic systems of risk management that would allow it to identify patterns of misconduct. These deficiencies are particularly pronounced, and particularly inexcusable, with regard to officer-involved shootings and use of force incidents – the forms of police conduct for which the Christopher Commission urged better tracking and analysis.

¹⁵⁸ Interview of Deputy Chief J.I. Davis, *supra*.

All arrest report “face sheets” have a box for use of force which should be checked by the officer if force was used in making the arrest. This notation alerts the reader, even after the most cursory of reviews, that force was utilized and additional investigation is likely to have occurred. Routinely, however, these boxes are left blank, even when the narrative of the report clearly indicates that force was involved in the arrest.¹⁵⁹ This oversight, whether intentional or not, suggests problems with record-keeping that could impair effective monitoring of how force is used, and with what frequency.

When a UOF incident occurs, the involved officer prepares a use of force or a combined use of force and arrest report that, depending on the kind of UOF, is sent either to the Lethal UOF Unit or the Non-Lethal UOF Unit. Although these reports require a complete description of the UOF, the database used to track and record use of force permits only the input of the single most applicable code from the use of force Code Sheet. Other UOFs (e.g., use of a chemical agent prior to use of a baton) go unentered and untracked.¹⁶⁰

Moreover, the LAPD has no centralized system for reporting or tracking use of force. Both the Lethal UOF Unit and the Non-Lethal UOF Unit place UOF information into databases. But each database is located on a separate, stand-alone computer housed in separate buildings. The databases are not linked, and neither can be accessed from a remote location (e.g., by a supervisor seeking information on a particular officer). Moreover, each database has only a limited ability to perform statistical tabulation and analysis. Neither database is equipped to report incidences of UOF for individual officers or for specific geographic Areas or Divisions.

Because commanding officers cannot access face sheets or the computer databases from remote locations, there are presently only two means by which a commanding officer can access an officer’s history of UOF incidents. The first is by gaining physical access to the officer’s personnel file at the HRB. But face sheets are often missing from the personnel file because, when an incident has been referred to IAG for investigation, IAG rarely forwards the file to HRB. The second means is by obtaining a private file (if one exists) of an officer’s use of force maintained by the officer’s previous Division. The difficulty with this second option, aside from

¹⁵⁹ Interview of William Sterling, Chief City Attorney, Hollywood Branch (Oct. 3, 2000).

¹⁶⁰ Interview of Sergeant Bruce Bogstad (July 12, 2000).

its haphazard nature, is that it is not common practice for a C/O to transfer the file of UOF incident reports along with the officer. Therefore, even though a diligent C/O may obtain the private file from the officer's most recent Division of assignment, if an officer has made several transfers there is little chance that a full file can be obtained in this manner.¹⁶¹

Some Divisions do keep records concerning a particular officer's use of force. The Hollywood Area, for example, maintains a database listing the name of the officer, the type of use of force, the date and location of the incident or public complaint, and the ethnicity of the person against whom force was used.¹⁶² But, as noted above, because such records (if they exist at all) do not follow an officer who transfers out of the Area, supervisors and investigators are unable to reliably or consistently evaluate a particular officer's past history of use of force.

8. Proper and credible investigation of shootings by officers requires meaningful participation by the Office of the District Attorney from the outset of the investigation.

Before 1979, the Police Commission required the LAPD to notify the District Attorney within 72 hours regarding officer-involved shootings "where death ensued or where the circumstances justified a review." The discretion built into this general policy allowed the LAPD to avoid review of "gray area" shootings, and the 72-hour delay deprived the District Attorney of an opportunity to observe the initial police investigation at the scene of the shooting.

Beginning in 1979, in response to the controversial shootings of Eulia Love and Ronald Burkholder, the Board of Police Commissioners conducted a lengthy inquiry that highlighted the need for objective and reliable shooting investigations. The inquiry resulted, in part, in the issuance of a policy requiring the LAPD to notify the District Attorney's office immediately after all officer-involved shootings so that the District Attorney could investigate the shooting promptly and independently. Los Angeles District Attorney John Van de Kamp, in anticipation of this policy, took steps to secure funding for "Operation Roll Out," wherein a deputy district attorney and a district attorney investigator would respond to the scene of all officer-involved

¹⁶¹ *Id.*

¹⁶² Interview of Captain Michael Downing.

shootings and observe the investigation from its inception. The operation went into effect in February 1979.¹⁶³

Under the protocol negotiated by the LAPD and the District Attorney, the Department agreed to allow representatives of the District Attorney's office "to clearly observe the on-scene investigation." Unfortunately, this provision became an instrument for confining the District Attorney team to a remote corner of the site and preventing their meaningful participation or observation.¹⁶⁴ Similarly, despite provisions giving the District Attorney's representatives access to witnesses at the station, witnesses were routinely escorted from the station in a manner designed to avoid contact with the District Attorney personnel.

The District Attorney terminated the roll out program in 1995, purportedly for budgetary reasons,¹⁶⁵ but the program was revived in February 2000. Allan Field, the District Attorney's Director of Special Operations, told the Panel that from 1995 to 2000 there was not a single felony referral of an OIS case to the District Attorney, despite a written request that the agencies continue to refer cases in the absence of the program. Misdemeanor referrals, moreover, were made only after the statute of limitations had run.

The current program, which members of the District Attorney's office say was delayed by opposition from the LAPD, is now subscribed to by the majority of law enforcement agencies in Los Angeles County, including the LAPD and Los Angeles Sheriff's Department. The new protocol limits the role of the District Attorney to the determination of whether a violation of criminal law has occurred; the responsible law enforcement agency retains responsibility for both administrative and criminal investigation. The protocol applies not only when a police officer, on- or off-duty, shoots and injures any person during the scope and course of employment, but also when an individual dies in the custody or control of a law enforcement officer or agency,

¹⁶³ Craig D. Uchida et al., "Police Shootings and The Prosecutor in Los Angeles County: An Evaluation of Operation Roll Out" at 6-7 (Police Foundation, 1981). Initially LAPD was the only participating law enforcement agency. In June of 1979, following the wrongful shooting of Steven L. Conger, the Los Angeles Sheriff's Department agreed to participate as well. By June 1981, 27 law enforcement agencies were participating in the roll out program.

¹⁶⁴ Interview of Deputy District Attorney Roger Gunson, Director, Region I Branch and Area Operations (July 7, 2000).

¹⁶⁵ Interview of Deputy District Attorney Michael Tranbarger (July 7, 2000).

use of force by a peace officer may be a proximate cause of death, and the law enforcement agency requests the assistance of the District Attorney.¹⁶⁶

Despite the LAPD's initial resistance to implementation of the new protocol, the program now appears to be working with prompt notification, a high degree of cooperation from officers at the scene, and continued cooperation through the course of investigation. Representatives of the District Attorney's office interviewed by the Panel unanimously believe that the presence of the District Attorney has encouraged more thorough investigation by LAPD and has boosted public confidence in the process. The success of the program suggests there may be value in facilitating roll outs by representatives of the Office of Inspector General as well as the District Attorney's office.

Nonetheless the depth of the Department's commitment even to the existing roll out program remains unclear. The Board of Inquiry Report, for example, pays little attention to the program. The report does recommend that "[r]e-implementation of the District Attorney's Roll-Out Program should be monitored to ensure the protocol produces the desired effect of facilitating the District Attorney's Office monitoring of OIS investigations at the scene of the incident,"¹⁶⁷ and then adds that "[e]very effort should also be made to educate the public on the progress of this program to maximize the program's value." These comments leave the unfortunate suggestion that the Department sees the program primarily as a public-relations tool,

¹⁶⁶ The Deputy District Attorney who rolls to the scene is responsible for gathering the police reports and recommending to the head Deputy District Attorney of the Special Investigations Division whether a closing report or a criminal charge is appropriate. If approval is granted to pursue a criminal charge, the Deputy District Attorney is also supposed to prosecute the charge. The responding Deputy District Attorney, however, is also responsible for removing any compelled officer statements from the police report on the shooting, also known as the "shoot book." This fact, in combination with the routine exposure of the responding Deputy District Attorney to information from *Lybarger*-compelled statements at the scene may prevent any responding Deputy District Attorney from actually preparing and prosecuting a criminal charge. (The responding investigator from the District Attorney's office does not review the shoot book.) This problem would be eliminated if, as we recommend, the one-year statute of limitations on administrative charges is modified to allow the Department to delay the administrative investigation of a shooting by an officer until after completion of the criminal investigation. This change would also allow the responding Deputy District Attorney to advise criminal investigators at the scene without potentially tainting the criminal investigation because of the prosecutor's exposure to compelled statements.

¹⁶⁷ BOI Report, Recommendation No. 69, at 346.

not as a meaningful partnership to ensure a thorough and complete investigation of potential criminal misconduct. It also ignores the important benefit that an effective, independent, and credible review by the District Attorney's Office can have on the credibility of the Department's investigation and handling of the shooting.

9. There is a lack of effective coordination and communication between the District Attorney's Office and the LAPD with respect to the Department's investigation of officer-involved shootings and uses of force.

The Department does not routinely refer cases involving potentially criminal conduct by its officers to the District Attorney's Office for an independent review until after protracted review within the Department. That is, the Department makes the determination whether to refer the matter for criminal prosecution after multiple layers of review within the Department. This leaves the Department in the position of appearing to make the prosecutive determination on matters involving its own officers. This is particularly problematic when allegations of excessive force by an officer against a member of the public are involved, and when it is perceived by many that the Department is not objective and routinely sides with its officers against members of the public.

Further, the Department does not immediately notify the District Attorney's Office when it has reason to believe that a use of force incident may involve criminal misconduct by an officer.¹⁶⁸ Thus, it does not receive the benefit of the District Attorney's legal advice and assistance, which could enhance the quality of the Department's investigation.

Finally, the District Attorney's Office does not prosecute all cases against LAPD officers. Responsibility for the prosecution of misdemeanors offenses by police officers, including offenses involving improper use of force, currently lies with the City Attorney's office. That office has two Divisions: the Criminal Division prosecutes misdemeanors and infractions, and the Civil Division represents the City and its departments, including the LAPD, in civil matters. Because of the difficulties encountered in any prosecution of police officers for use of force, and because of the great importance of avoiding not only actual conflicts of interest but any apparent conflict of interest in the decision whether to mount such prosecutions, the Panel recommends

¹⁶⁸ Under the roll out program, the District Attorney's Office is, of course, notified of officer-involved shootings.

that responsibility for all prosecutions of police officers for uses of force be moved to the District Attorney's Office.

Cal. Penal Code § 149 specifically addresses assaults by public officers acting under color of authority. If that statute is implicated by the conduct of an officer in a use of force, the matter should be referred to the District Attorney's Office, and prosecuted as a felony if such a charge is warranted. However, if the District Attorney's Office determines that the case should be treated as a misdemeanor, which is an option under the statute, it should nonetheless retain jurisdiction rather than giving the matter to the City Attorney's Office. This will eliminate the potential for conflicts that currently undermines efficient and consistent prosecution of criminal officer conduct. Moreover, the LAPD should refer these matters to the District Attorney's Office in a timely fashion, so as to enable prosecutors to make a charging decision prior to the expiration of any relevant criminal statute of limitations.

It is also important to recognize that the District Attorney's Office is in a unique position to provide LAPD management with information regarding officer conduct and truthfulness. Problems that arise in criminal prosecutions because of concerns about officer credibility or other misconduct are clearly relevant as supervisory issues for the LAPD, yet no effective system exists for collecting such information and communicating it to appropriate personnel within the Department. The Department should work with the District Attorney's Office to establish clear-cut procedures for collecting such information and forwarding it to the Deputy in charge of the Special Investigation Unit for action.

The City Attorney's Office gains comparable insights from handling civil suits involving alleged officer misconduct. Therefore, a similar protocol could and should be created for facilitating the same sort of information sharing between the LAPD and the City Attorney's Office.

Recommendations

- 5.1. The City Charter should be amended to toll the limitations period for administrative charges against police officers pending the completion of any criminal investigation of the same underlying conduct.**
- 5.2 Criminal investigations of shootings and uses of force by LAPD officers should precede the related administrative investigations, and *Lybarger* admonitions should not be given until the criminal investigation has been completed.**

5.3. The Internal Affairs Group should roll out to all officer-involved shootings and major uses of force and should conduct all investigations involving potential criminality and serious misconduct.

The resources of IAG must be substantially increased, and the Department must provide IAG with qualified investigators with the training and experience necessary for this important function. IAG investigators should roll out to the scene of every officer-involved shooting or major use of force, and IAG should be responsible for making the initial decision of whether the incident being investigated involves potential criminality and serious misconduct. IAG's presence at the scene of these incidents would serve to enhance the quality of its investigations at a critical stage. It would provide an independent perspective in evaluating the evidence at the scene, and would improve the quality of its ultimate assessments by participating in the investigations from the outset.

5.4 The Internal Affairs Group should conduct parallel criminal and administrative investigations when it determines that there is potential criminality or serious misconduct.

Unless and until the one-year limitations period for administrative charges is modified, IAG should conduct its criminal investigation concurrently with the administrative investigation, taking care to ensure that criminal investigators are insulated from any *Lybarger*-tainted materials. Further, once IAG assumes jurisdiction over the investigation, different officers within IAG should conduct the parallel criminal and administrative investigations to facilitate independence of the investigations and decision-making.

5.5. The Internal Affairs Group should immediately notify the District Attorney's Office whenever it determines that there is reason to believe that an officer's actions may involve criminality or substantial misconduct, and should present such cases to the District Attorney to determine whether prosecution is warranted.

All cases of uses of force and officer-involved shootings investigated by IAG for potential criminal misconduct should be submitted promptly upon the completion of the investigation, and sufficiently in advance of the expiration of any criminal statute of limitations period to provide the District Attorney's Office (or the City Attorney's Office in the case of misdemeanor prosecutions) enough time to evaluate the case. The District Attorney's Office should consider assigning a prosecutor to the case as soon as IAG indicates that it is investigating a matter that may involve criminality to provide legal advice to the investigators and monitor the

investigation. Consideration should be given to vesting responsibility for all use of force prosecutions of police officers, whether felony or misdemeanor, to the District Attorney's Office.

- 5.6. The Board of Police Commissioners should consult with the City Attorney's and District Attorney's Offices, members of the City Council and Board of Supervisors and others to consider vesting the responsibility for all use of force prosecutions of police officers, whether felony or misdemeanor, in the District Attorney.**
- 5.7. The Scientific Investigation Division should roll out to the scene of every officer-involved shooting, and to the scene of any major use of force where physical evidence must be collected, and lab work and other forensic analysis should become a routine part of investigating officer-involved shootings or a major use of force.**
- 5.8. All officer interviews and witness interviews in connection with an officer-involved shooting or major use of force, and all pre-statement walk-throughs conducted by LAPD investigators, should be routinely and completely tape recorded.**

The Department should ensure the tape recorder is left running continuously throughout the interviews, and that the audio tapes and the transcripts are included in the file submitted to the Use of Force Review Board, to the Chief of Police, and to the Police Commission and its staff.
- 5.9. Investigative files in cases of officer-involved shootings and major uses of force should note inconsistencies among officer statements, and between officer statements and other evidence.**
- 5.10. The Department should establish a UOF Division comprised of experienced detectives who would be dedicated to performing administrative investigations of officer-involved shootings and other major uses of force that do not involve evidence of criminality or serious misconduct.**
- 5.11. The Inspector General should regularly audit officer-involved shooting and major use of force files to test if the files accurately and comprehensively reflect the state of the evidence.**
- 5.12. Investigative files in cases of officer-involved shootings and major uses of force should include information about the officer's past history, including disciplinary record, past uses of force, and past pursuits.**

The Use of Force Review Board, the Chief of Police, and the Police Commission and its staff should all have access to this information for purposes of determining whether the conduct under review was in policy, not just for selecting remedial action in the event the conduct is found to have been out-of-policy.

- 5.13. Representatives of the Police Commission and of the Inspector General should be permitted to question witnesses at hearings before the Use of Force Review Board, and should be allowed to attend the Board's deliberations.**
- 5.14. The Police Commission's Special Services Unit (SSU) should be placed under the direction of the Inspector General, and steps should be taken to improve the quality of SSU review.**

The OIG should actively recruit eligible former officers for employment by SSU, SSU employees should receive formal training in assessment of officer-involved shootings, and steps should be taken to retain SSU employees for longer tours of duty .

- 5.15. The Department should develop a uniform protocol for investigations of minor uses of force by officers not resulting in hospitalization, including provisions for review of the Division commanding officer's determination by the Bureau Deputy Chief.**

The protocols should provide enforcement of the policy that a supervisor who was not involved in or present during the incident will have the primary responsibility for conducting the investigation. The protocols should also provide for tape-recording witness statements, and review by appropriate Command Staff.

- 5.16. The Department should reinstate the protocol that requires investigating officers to submit a preliminary written summary of all incidents involving officer-involved shootings or major uses of force to the Chief of Police within ten days of occurrence.**
- 5.17. The Department should convene an executive meeting within two weeks of an officer-involved shooting or a major use of force for the purpose of assessing risk management and training issues pending the outcome of the criminal or administrative investigation.**

Representatives of the Use of Force Division, Training Division, Risk Management Division, Human Resources Bureau, Behavioral Science Services Section, and others should participate in the meeting in order to make a prompt determination of the officer's fitness for continued duty, the need for further training or counseling for the involved officer and the need for Department-wide change. Because the officer's compelled statements may be considered at such a meeting, criminal investigators should not be present.

- 5.18. The Department should take steps to enhance and to enforce record-keeping regarding uses of force, including proper acknowledgement of uses of force on arrest report face sheets. Face sheets for use of force investigations and related databases should be revised to require a complete description of all forms of force used.**

5.19. The Department should strengthen its commitment to the District Attorney's roll out program.

The responding Deputy District Attorney should be fully integrated into the criminal investigation of shootings and major uses of force by officers from the outset, to ensure that the investigation is properly conducted, to guard against legal errors that could jeopardize a subsequent prosecution, and to boost public confidence in the integrity of the investigation. Procedures should be developed to ensure that the Deputy District Attorney is not tainted with exposure to compelled statements from officers.

5.20. The Department should designate a Deputy Chief to be responsible for receiving and distributing information from a designated point of contact in the District Attorney's Office that relates to problems with officer credibility or other misconduct.

Because the District Attorney's Office develops a unique insight into problematic officer behavior while prosecuting criminal cases, the Department should be equipped to take full advantage of such information so that misconduct is properly monitored.

5.21. The Department should designate a Deputy Chief to be responsible for receiving and distributing information from a designated point of contact in the City Attorney's Office that relates to problems with officer credibility or other misconduct.

Like the District Attorney's Office, the normal functions of the City Attorney's Office provide it with important firsthand information regarding problems with officer credibility or other misconduct. The Department should take advantage of this by creating a formal protocol for interacting with the City Attorney's Office in this regard.

CHAPTER 6

RISK MANAGEMENT

Introduction and Summary

“One of the most challenging goals in law enforcement today is to reduce public complaints, litigation, injuries, and financial loss without sacrifice of overall effectiveness.”¹⁶⁹ Conduct leading to possible litigation, including arrests, detentions, uses of force, pursuits, traffic accidents, and employment-related issues, all present risks of loss. Consequently, implementation of an effective risk management system is essential to the operation of any large metropolitan police department.

Nevertheless, for nearly a decade, the LAPD and City of Los Angeles have failed to comply with an unequivocal mandate from the Christopher Commission for the adoption and implementation of an effective risk management system. Had such a system been in place, the problems arising out of the Rampart Area might have been prevented.

As the Department itself acknowledged in the Board of Inquiry Report:¹⁷⁰

[T]here can be no doubt that things were amiss in Rampart, reaching a crescendo in 1996. Pursuits, injuries resulting from uses of force, officer-involved shootings and personnel complaints had a clearly identifiable pattern. The same officers appear all too frequently in these critical risk management events and the number of supervisors involved was extremely noticeable. Yet, no one seems to have noticed and, more importantly, dealt with the patterns.

As the body most cognizant of the need for an effective risk management system, LAPD management is principally responsible for this systemic failure. Other City agencies that failed to give suitable attention to the problem and provide the financial resources for reform must also shoulder some of the responsibility.

The lack of an automated data system that can capture information relating to officer conduct and accessible to LAPD’s managers and supervisors is the most glaring failure. But it is not the only one. The Department’s Risk Management Division lacks the resources and institutional support to function effectively, and the Department lacks a true system of command

¹⁶⁹ Commander Lee McCown, LASD and Randy Means, Esq., *Implementing Risk Management in a Law Enforcement Agency*.

¹⁷⁰ BOI Report, at 108-09.

accountability for risk management. Unless this situation is rectified, efforts at effective risk management within the LAPD are doomed to failure, and the specter of another scandal looms in the future. In order for any risk management system to succeed in the LAPD, that system must be based not solely upon the technological tools that enable the Department to access and analyze relevant data, but must be thoroughly integrated with a strong system of management accountability.

A series of immediate changes are required. First, there must be support and accountability for risk management at every level of LAPD. Eliminating and managing foreseeable risk must become the responsibility of all management levels in the Department. Second, the tools for implementation of a risk management policy must be provided. These include development of TEAMS II (the expansion of the Training Evaluation and Management System) and its effective use by LAPD supervisors to ensure that problems are identified early and fairly handled in the best interests of the LAPD and the people it is pledged to protect and serve. Third, the Risk Management Division must have adequate resources and trained personnel to function effectively.

Findings

1. An effective risk management system reduces the risk of officer misconduct and enhances the public confidence and trust in a police department.

Risk management is a process to identify and control risks that threaten the viability and integrity of an organization, and, thus, protect its assets. A law enforcement agency's assets consist primarily of its personnel and property, its fiscal budget, and its public reputation for effectiveness and reliability. Effective risk management is a must for a law enforcement agency; it minimizes the threat of physical injuries to Department personnel and property, minimizes financial losses, and maintains public confidence and trust. Risk management poses unique challenges in the law enforcement context because loss minimization must be achieved without diminishing crime control and public safety.

Effective risk management requires (1) identification of risks, (2) minimization of risks, (3) monitoring of the risk management program's results, and (4) management accountability. Above all, there must be a strong commitment to the program at all levels in the Department.

Past loss experience is a starting point for risk identification. In a law enforcement context, managers must have available a systematic collection and analysis of historical data

regarding the conduct of its officers from the officer's use of force to his or her disciplinary history. Managers must be able to make comparisons between segments of the organization, to identify positive and negative trends, to identify where losses are not being reduced, and to identify where incidents that may lead to losses are occurring most frequently – such as Rampart.

The primary goal of any risk control system must be to minimize both the frequency and severity of loss. With proper procedures to identify where risk management is needed, managers should be better able to allocate training resources, personnel, and equipment resources, identify at-risk personnel in need of counseling or other assistance, identify types of activities where policy changes and/or discipline may be required, and most important, implement those policy changes to create an effective risk management program.

To ensure that a risk control program is effective in reducing losses, and to identify areas where additional training, resources or other changes may be needed, an organization must regularly monitor the implementation of the program and measure its effectiveness. This can be done through periodic audits and frequent management review of key data.

Once given the tools necessary to control risks effectively, managers at all levels must be held accountable for losses and excessively risky conduct that occurs within their commands. All levels of management must be committed to risk control. Without such a commitment, as the history of the LAPD shows, any risk management program is doomed to failure.

2. The LAPD has failed to implement an effective risk management system mandated by the Christopher Commission in its 1991 report.

The appalling allegations that have been generated by the Rampart scandal serve to highlight that Department's woeful failure to implement an effective risk management system. To truly understand the magnitude of this failure, it is necessary to examine the history of the Department's efforts to implement an effective risk management system since the Christopher Commission mandated the implementation of a risk management system by the LAPD. As the history shows, such a system is many years overdue.

July 1991 – *Report of the Independent Commission of the Los Angeles Police Department* (Christopher Commission Report).

The Christopher Commission found that the LAPD management was fundamentally responsible for the problem of excessive force by LAPD officers. The Commission concluded that management failed to implement appropriate systems for preventing and controlling

problem behavior by its officers. The Commission reported that LAPD had no adequate system for compiling and reviewing data regarding the use of force by officers, nor for analyzing such data to reveal problem officers or troublesome patterns of conduct. The Commission recommended that LAPD adopt systems to collect, track, and analyze data regarding officer conduct, and that it provide such data to its command officers in order for them to effectively monitor and manage officer conduct. In short, the Commission recommended that LAPD implement a pro-active “early warning” system, and impose command accountability for its effective use:

Command officers have not been held accountable for excessive or unnecessary force by officers whom they supervise. This must change. . . . Supervisors must understand what force is being used and why, detect “early warning” signs of a developing problem, and arrange for officers to receive the training and counseling they need to exercise the appropriate level of restraint in contacts with the public.”¹⁷¹

In addition, the Commission found that, in far too many cases, civil litigation involving allegations of misconduct by officers reflected fundamental failures in LAPD management and supervision. Both the City Attorney and the LAPD admitted that there was no effective procedure in place for reviewing civil litigation for the purpose of avoiding similar litigation in the future. The Commission recommended:

Given the millions of dollars paid by the city as a result of use of force by officers, and the egregious conduct revealed in some of the lawsuits, the Department must establish procedures to monitor the results of civil litigation and make use of the information obtained.¹⁷²

January 1996 –The Risk Management Unit (RMU) was created within the Legal Affairs Division for the purpose of centralizing the LAPD’s risk management efforts and seeking “proactive and creative methods to identify and minimize risk to employees, the organization, and the public stakeholders.”¹⁷³

¹⁷¹ Christopher Comm. Report, at 62.

¹⁷² *Id.* at 60.

¹⁷³ LAPD Report on Risk Management, June 1998, at i (hereinafter LAPD 1998 Report).

May 1996 – *Five Years Later: A Report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of Independent Commission Recommendations*, prepared by Special Counsel Merrick J. Bobb, et al. (Bobb Report)

The Special Counsel to the Police Commission found that, despite the unequivocal recommendation by the Christopher Commission, LAPD still had no comprehensive “early warning” database system by which management could collect, analyze, and disseminate data on the risk of excessive force. The Report acknowledged “modest piecemeal steps,” but criticized the LAPD’s computerized (and yet to be implemented) Training Evaluation and Management System (TEAMS) as being “weak and inadequate” and a “far cry from an automated tracking system that permits management to make informed decisions about officers or to identify and manage at-risk employees as envisioned by the Christopher Commission.”¹⁷⁴

To be sure, the creation of [an automated “early warning” tracking system] would have been an expense. But in our view, the LAPD has too long sought refuge in untested assertions that it lacks resources to implement the Christopher Commission reforms. Further, the cost of not having such systems is far greater than the cost of implementing the systems.¹⁷⁵

January 16, 1997 – Letter from Raymond C. Fisher, President, Los Angeles Board of Police Commissioners, to the United States Department of Justice (DOJ) Civil Rights Division.

The Police Commission (joined by LAPD Chief Willie Williams) requested federal funding for the development of an automated early warning system to implement the Christopher Commission reforms. The system is expected to “provide the database necessary for a restructured LAPD competently to identify, control and manage at-risk situations, at-risk individuals and other liability risks,” as well as “inculcate command accountability for proactive management of personnel performance”¹⁷⁶

Specifically, the Commission identified ten data items to be recorded and tracked (including use of force, officer-involved hit and non-hit shootings, public complaints, civil

¹⁷⁴ Bobb Report, at 59.

¹⁷⁵ *Id.* at 2.

¹⁷⁶ Letter from Raymond C. Fisher, President, Los Angeles Board of Police Commissioners, to the United States Department of Justice, January 16, 1997, at 1.

claims, and lawsuits), and described in detail how the data should be linked and the ways in which it should be capable of being retrieved and analyzed.¹⁷⁷

Reiterating the need for command accountability, Commission President Fisher stated:

[P]rotocols should be developed requiring that written print-outs of information about officers relevant to risk and personnel management be prepared and circulated on a regular basis to Area commanders and others who have direct responsibility for management of stations, divisions and bureaus. These individuals must have an affirmative obligation to act on the data and standards must be developed to hold them accountable for failure to act thereon.¹⁷⁸

July 1997 – TEAMS system implemented.

September 1997 – DOJ awards grant to LAPD for implementation of an expanded TEAMS system (TEAMS II) as proposed in the letter from Commission President Fisher.

November 1997 – *Status Update: Management of LAPD High-Risk Officers*, prepared by Katherine Mader, Inspector General, Los Angeles Police Commission (Mader Report).

The Office of the Inspector General of the Police Commission concluded that, despite the Christopher Commission recommendations and the Five Years Later Report (Bobb Report), the LAPD still did not have a comprehensive program to identify and monitor potential at-risk employees. Further, due to historical communication difficulties between the City Attorney's Office and the LAPD, LAPD was not always aware of litigation involving allegations of improper conduct by its own employees, even after substantial settlements had been paid. In addition, the TEAMS system was not yet fully operational and lacked numerous components to achieve effective coordination and utilization. While noting "some progress" in the LAPD's risk management strategies, the OIG recommended that the LAPD and City Attorney together "revise policies that impede the Department's ability to learn of and to monitor civil litigation."¹⁷⁹

January 29, 1998 – Letter from Special Counsel Merrick J. Bobb to Laura Chick, Chair of the Public Safety Committee of the Los Angeles City Council, outlining some of the risk management efforts being undertaken by the Los Angeles Sheriff's Department (LASD), and

¹⁷⁷ *Id.* at 2.

¹⁷⁸ *Id.* at 4-5.

¹⁷⁹ Katherine Mader, *Status Update. Management of LAPD High-Risk Officers*, at 2, 14-15, (November 1997) (hereinafter Mader Report).

concluding that LASD is “substantially ahead of the LAPD in identifying, managing, and reducing liability risk and elaborating procedures to do so.”

January – February 1998 – Administrative Order Nos. 1 and 3 issued by the Chief of Police implementing command accountability through the “Focus Accountability Strategy Teamwork Response and Coordination” (FASTRAC) system.¹⁸⁰

June 1998 - *LAPD Report on Risk Management*, prepared by LAPD Legal Affairs Section, Risk Management Unit (LAPD 1998 Report).

Eighteen months after its formation, LAPD’s Risk Management Unit issued its first report on risk management programs then in effect and those to be implemented in the future. Its risk management approach was described as having three areas of focus: training, tracking and accountability. The tracking component was to be accomplished through the creation and implementation of an updated TEAMS II system and the Department Employee Litigation Tracking and Analysis (DELTA) system, which was to track civil litigation filed against LAPD officers. The accountability component was to be achieved through the use of the FASTRAC command accountability program.

July 28, 1998 – *Analysis of June 1998 LAPD Report on Risk Management*, prepared by Katherine Mader, Inspector General of the Police Commission.

Although the Inspector General commended certain LAPD efforts, she concluded that the LAPD June 1998 Report “paints an overly optimistic picture of its current risk management reality.” Further, “the TEAMS system . . . is not yet an effective method for field supervisors to identify and monitor potential high-risk officers.”¹⁸¹

September 1998 – Issuance of the Request for Proposal (RFP) for the development of TEAMS II one year *after* the grant from the Department of Justice. Although the RFP stated that the contract was to be awarded by February 1999, as noted below, the award was not made until May 2000.

¹⁸⁰ The use and effectiveness of FASTRAC is discussed below.

¹⁸¹ Katherine Mader, *Analysis of June 1998 LAPD Report on Risk Management*, (July 1998).

November 1998 – Six proposals received in response to the RFP for consultant services to develop the TEAMS II “Automated Personnel and Risk Management Data System,” which was to include the following capabilities:

- Fulfill the risk management recommendations of Christopher Commission;
- Provide the data base necessary to identify, control, and manage at-risk situations, at-risk individuals and other liability risks;
- Encourage command accountability for proactive management of liability risks and personnel performance; and,
- Identify patterns of police misconduct, including excessive force, and other kinds of liability risks.

March 23, 1999 – LAPD selected Sierra Systems as its vendor on the TEAMS II development contract, and forwarded the RFP with the selected vendor to the Mayor and the City Council for approval.

January 31, 2000 – Chief of Police issues Special Order No. 6 establishing the Risk Management Division to replace the Legal Affairs Section. The function of the Division was to provide “support and liaison to the Office of the City Attorney in response to ... civil claims and lawsuits related to police actions,” and to “develop, implement, and coordinate Department-wide risk management programs and strategies to reduce liability exposure....”

March 1, 2000 – LAPD Board of Inquiry into the Rampart Area Corruption Incident Report is released.

March 2000 – The City Council rejects the bid from Sierra Systems due to concerns arising out of Sierra’s performance on other City contracts.

May 8, 2000 – Letter from DOJ Civil Rights Division to the City Attorney, stating DOJ’s determination that LAPD is engaging in a “pattern or practice” of actions in violation of the Fourth and Fourteenth Amendments to the Constitution. DOJ cited LAPD’s failure to implement an adequate risk management system, and in particular, its failure to use the federal funds awarded to LAPD for this purpose:

Specifically, the LAPD has failed to implement a comprehensive risk management system to identify patterns of at-risk conduct by individual officers and groups of officers, such as patterns of uses of force, injury to citizens, and citizen complaints. One important component of a risk management system is an

appropriate “early warning” system. As the Police Commission acknowledged several years ago, the LAPD’s current “early warning” system, the Training, Evaluation, and Management system (“TEAMS”), is inadequate. Despite this recognition, however, the LAPD has failed to make progress in developing an adequate “early warning” system. Indeed, it has not even utilized the federal funds made available for this specific purpose.

May 8, 2000 - TEAMS II Working Group¹⁸² selects Leikar Strategic Solutions Corp. (LSS) as the vendor for the TEAMS II development contract.¹⁸³ LSS agreed to assess LAPD’s current risk management systems and business practices, and define the functional and technical requirements for the ultimate construction and installation of TEAMS II. The project was funded by the DOJ grant, supplemented by the City’s General Fund. Upon review of LSS’s final report, the City anticipates awarding a separate contract for construction and installation of TEAMS II.

Despite LAPD’s well-stated intentions, nine years after the Christopher Commission Report and two years after the June 1998 Report, the LAPD has failed to put an adequate risk management system in place. Some responsibility for this failure may be assigned to other City agencies that have budget and oversight responsibility over the Department for failing to give the necessary attention to the implementation of a risk management system. Nonetheless, the principal responsibility for this failure lies with LAPD management, which has the direct and immediate responsibility for the Department’s risk management, was fully aware of the need and recommendations for an effective automated system, and failed to give the implementation of such a system the priority it required. Had the Department truly wanted an effective risk management system in the years after the Christopher Commission Report, it undoubtedly would have had one.

3. LAPD lacks an effective automated computer system for systematically identifying potential risk management problems

TEAMS was implemented in 1997 in response to the Christopher Commission’s criticism of the LAPD’s inability to track and identify risky behavior and at-risk personnel. TEAMS is

¹⁸² After City Council’s rejection of Sierra Systems, the Mayor and City Council formed a Working Group with representatives from the LAPD, City Attorney and other City agencies to complete an expedited vendor selection process.

¹⁸³ LSS developed Pittsburgh’s PARS system, discussed in Appendix B to this chapter.

not a database by itself. It is only a process for accessing an individual employee's information by extracting data from various separate systems and databases maintained by different organizations within the LAPD that contain different types of data and information. TEAMS can report only limited information in eight categories. The following chart summarizes the information displayable by TEAMS, and the systems from which the information is drawn.

TEAMS CATEGORY	DESCRIPTION	SYSTEM NAME (if any)	MAINTAINED BY
Discipline	Allegation, Count(s), Disposition, Date, Case File Number (Internal Affairs Ref. #)	Personnel Complaint Statistical Information (PCSS)	Internal Affairs Group
Attendance	Hours and Types of Leave Used/Earned (e.g., Overtime, Family Illness, Sick Leave. . .)	Restricted Duty Information System (RDIS); and Los Angeles Payroll System (LAPS)	Medical Liaison Unit; City Controller's Office; and Fiscal Operations Division
Traffic Collisions	DR Number (Report #), Date, Classification (Preventable/Non-Preventable), Penalty (if any)		Uniformed Services Group
Use of Force (Non Lethal)	Ref Key (ID#), Date, Type of Force Used		Human Resources Bureau
Vehicle Pursuits	DR Number (Report #), Date, Initial Reason for Contact, Final Charge, Pursuit Discontinued, Collision (if any)		Uniformed Services Group
Use of Force (Lethal)	OIS (Officer Involved Shooting) Number, Date, Tactics, Drawing of Weapon, Use of Force, Additional Consideration		Human Resources Bureau
Work Permit	Expiration Date, Type of Work, Employer, Location	Comprehensive Automated Permit System (CAPERS)	Human Resources Bureau
Commendations	Date, Commendation/Award Name, Initiating Entity	Department Employee Commendations System (DECS)	Geographic Areas (minors); Human Resources Bureau (majors)
Civil Litigation	NOT USED		
Assignment/Rank History	Effective date, Divisions of Assignment, Rank, and Position	Training and Management System (TMS)	Personnel Division
Training History	Date Completed, Course Title, Hours, Indication of POST-certified (California Commission on Peace Officer Standards and Training) course	TMS	Continuing Education Division

TEAMS has significant limitations inhibiting its usefulness as an effective management tool. First, the LAPD has no established standards or written policies for its use of TEAMS data by management. The Board of Inquiry reported that *"no procedure or policy could be found that*

requires a regular TEAMS review which should most logically be done in conjunction with each employee's annual performance evaluation."¹⁸⁴

Second, the Board noted that important information is not always entered on TEAMS:

Several major personnel investigations were found that did not appear on the officers' TEAMS history even though the matter had been adjudicated for some time. . . . In too many cases, people are making personnel and promotional decisions unaware of matters that certainly would affect their decisions.¹⁸⁵

TEAMS also lacks information about civil litigation, making it unusable as a tool for supervisors or senior command officers to evaluate the litigation history of individual officers.

In addition to the system's limitations, LAPD lacks adequate staff to input TEAMS data. Data is frequently entered too late to be of use to persons making important personnel decisions, not entered at all, or entered inaccurately. Finally, there is no entity charged with conducting regular audits of the TEAMS data.¹⁸⁶

Even before its implementation in 1997, it was known that TEAMS was inadequate to meet the Department's needs:

At best, TEAMS will provide only limited data — principally raw numbers — on citizen complaints and Internal Affairs investigations, officer-involved shootings, uses of force, and some court judgments (but not settlements), among other categories of information. The synopsis on TEAMS of the officer's discipline history will be bare bones, and a supervisor or manager wishing to learn greater details with respect to the subject matter of sustained complaints, for example will still have to make a trip downtown to review a paper file.

TEAMS will not be able to do automated trend analysis, although it will be able to perform some ad hoc trend analyses upon request. . . . **TEAMS is thus a far cry from an automated tracking system that permits management to make informed decisions about officers or to identify and manage at-risk employees as envisioned by the Christopher Commission.**¹⁸⁷

¹⁸⁴ BOI Report, at 297.

¹⁸⁵ *Id.* at 335.

¹⁸⁶ *Id.* at 19.

¹⁸⁷ Bobb Report, at 59.

Given the limitations of TEAMS, the Department began looking towards the development of TEAMS II even before TEAMS was implemented in July 1997. In May 2000, the City of Los Angeles finally entered into a contract with Leikar Strategic Systems (LSS) to provide a blueprint and development plan for a TEAMS II. The LAPD's Vision Statement for TEAMS II specifies several "functional objectives" for the system:

1. At a minimum, TEAMS II should be able to record, track, and analyze all of the items currently contained in the original TEAMS; plus all criminal or potentially criminal investigations that stem from employee misconduct; all arrests, crime reports and citations made by officers; and all information from performance evaluations.
2. The system should be able to track all administrative investigations that stem from civil litigation, and all civil/administrative claims and lawsuits filed against the City or the LAPD, as a result of LAPD operations.
3. Each of the system's areas or modules "should be designed so that its data may be linked with other modules, which record different aspects of the same incident. . . . For example, the user should be able to determine the status of any criminal or administrative investigation associated with an incident that generated litigation."
4. TEAMS II should be able to retrieve information not only on individual employees, but groups of employees, divisions, bureaus and other relevant categories.
5. TEAMS II should allow for the programming of threshold parameters within risk management categories. The system will then automatically notify LAPD supervisors/managers when these parameters are met.¹⁸⁸

In its interim report, LSS properly summarized the indispensable elements of an efficient risk management data system to include the collection and organization of relevant data from source systems, a repository to store selected data, provide cross-referencing between events, personnel and actors, reporting facilities, sophisticated analysis of the information in the system, provide security and confidentiality, alert managers about pre-defined events and provide for tracking of action items. When it is fully implemented, TEAMS II should finally provide the

¹⁸⁸ Professional Services Agreement for Teams II with LSS, May 20, 2000, Exhibit J, at 5-7.

Department with an automated early warning tracking system that the Christopher Commission envisioned in 1991.¹⁸⁹

4. TEAMS II will not be an effective automated risk management system unless the LAPD has the necessary infrastructure, policy and procedures to effectively utilize, support and maintain the system.

Timely and accurate gathering of empirical data is essential for TEAMS II to be effective. To correct the data problems experienced with TEAMS (missing data, inaccurate data, untimely entry), data entry standards must be established for each data field. One way to achieve greater data accuracy and consistency of input is to have all data entered at a central location by a dedicated staff that is intimately familiar with the data entry standards. Centralized data entry has its drawbacks, however, including less timely data entry than if information is entered at each data source on a daily basis.

The most efficient way for data to be entered into TEAMS II would be to have all LAPD forms available online on the LAPD Local Area Network (LAN), with terminals at each Department command location. For example, an officer should, whenever possible, complete an arrest report now available on the LAN so that the data can then be distributed electronically to the various systems that require it - including TEAMS II. Regardless of how the data is entered, regular audits must be conducted to ensure data is being entered in a standard, timely, and accurate fashion.

The Use of Force Report form and other report forms should have a box for the captain to initial indicating he or she has reviewed data in the risk management system in connection with the UOF report. The form should also require the captain to indicate whether any patterns or concerns were identified and if so, what they are. UOF data should be entered into the system at

¹⁸⁹ The absence of such a system does not mean that the Department is without the ability to identify "problem officers," albeit on a more limited basis. According to several current and former LAPD officers and commanders, including a former Chief of Police, the LAPD knows from observation and anecdotal information who its problem officers are without looking at a computer screen or data report. Further, the relevant data has long been available, as evidenced by the hand compilations contained in the BOI Report. As the BOI acknowledged, Rampart was due in part to the Department's failure to examine events closely enough to identify patterns. BOI Report at 108. Thus, the lack of an automated system is not an excuse for failing to take action to intervene with "problem officers."

the time the report is first made and as additional data becomes available, rather than waiting for final resolution as occurs under the current system.

The system must allow for the cross-referencing of data and trend reporting, *e.g.*, the system should be capable of gathering data on the use of force over specific time periods and providing an analysis of that data showing whether uses of force have increased or decreased over the time period. The system should also be able to collect, analyze, and compare data on a Department-wide basis, as well as by bureau, division, or other relevant group or category of officers such as specialized units. This would allow LAPD managers and commanders to compare data from similar operations in different parts of the City, or within a bureau or division, to identify where improvements or corrective measures may be necessary. The LAPD has used this kind of comparative data analysis in the past, for example in the Board of Inquiry Report. But at present, the data must be collected by hand, which is unnecessarily time-consuming, expensive and potentially inaccurate.

Protocols must be established for the use of TEAMS II reports by management. For example, standards should be set for frequency with which each officer's TEAMS II reports are reviewed by his or her immediate supervisor (typically at least once per year at performance evaluation time). Standards should be established for the types of reports that are regularly distributed to various levels within the chain of command structure.

All LAPD personnel who are responsible for inputting data into the system, and anyone who will be downloading or using data from the system, should receive comprehensive training regarding the system, the reports it can generate, and all legislative and policy directives for their use.

The risk management system should incorporate information from LAPD's disciplinary process, and training systems. For example, the system should also be able to track any discipline imposed on an officer and all training they require.

Upon implementation of TEAMS II, the system should include three to five years of historical data entered to enable it to immediately provide trend analyses and comparisons rather than having to wait for several years' data to accumulate in the database. This, necessarily, will require dedication of clerical resources as well as an interim method for collection of current data prior to full implementation of the system.

5. The Risk Management Division lacks adequate resources to effectively administer a risk management system.

LAPD's risk management efforts historically have served primarily as support for civil litigation (such as responding to discovery requests and investigating lawsuit allegations). The Risk Management Unit, now raised to the level of a Division, has had neither the influence within LAPD, nor the personnel and resources to do what in today's law enforcement climate must be its primary responsibility: to implement and administer an effective, proactive "early warning system" to identify at-risk officers and problematic trends and patterns that, if left unchecked, can lead to devastating financial losses and loss of public trust and confidence.

Presently, the Risk Management Division is under the command of the Employee Relations Group, which is one of three groups within the Human Resources Bureau. Risk Management currently has no direct organizational access to the Chief of Police. The Division is under a commanding officer at Captain III level. It has Investigation and Discovery Sections that are concerned with supporting civil litigation against the Department. Each section is supervised by a lieutenant. It also has a Claims Unit supervised by a sergeant that deals with administrative claims that must be filed as a precursor to litigation. The Risk Management Unit is also headed by a sergeant.

Until the end of September 2000, this Risk Management Unit, thinly staffed by a sergeant, four detectives, a police officer and a management analyst, was charged with overseeing the development of TEAMS II. The staff of this unit undertook these tasks in addition to their regular risk management responsibilities. A second sergeant position and a second police officer position have now been added and a TEAMS II Systems Analyst II position is being filled. While this is helpful, it still lacks the necessary personnel to administer an effective system. Additionally, the lack of promotional opportunities within the Division overall (there appears to be inadequate funding available for Detective III positions) as well as its reputation for being overworked, make it difficult to attract qualified personnel.

A proposal is currently being developed to upgrade the Risk Management Division to a Group level supervised by a commander. The proposal would also result in a significant increase in staffing, including, specifically, for the Risk Management Unit, a new lieutenant position, two detective positions (including one Detective III), two sergeants, three police officers, ten management analysts, and two clerical positions. The proposal also recommends that the Risk Management Unit be upgraded to a section and be organized into a Training Unit, a Legal Unit,

an Administrative/Audit Unit, and a Profiling Unit (to prepare officer profiles of identified at-risk officers for LAPD senior management on the Risk Management Committee (RMC). Significant staffing increases are also requested for the litigation support units, all of which have experienced significant increases in workload as the result of both Rampart-related lawsuits and broadened scope of general civil discovery requests.

To fully take advantage of TEAMS II, the Risk Management Division must be staffed with persons that have the background and expertise to perform the types of forecasting and trend analysis that needs to be done. Further, much of the success of TEAMS II will depend upon effective auditing of the comprehensiveness, accuracy and timeliness of data, and of the management's use of the data. The unit must be staffed with sworn and civilian personnel who possess the experience to develop and conduct such a regular auditing program. This auditing function should remain within the proposed Risk Management Group because it will require a working knowledge of the full scope of TEAMS II and the ability to focus on the risk management "warning signs" it can produce.

6. The Risk Management Committee lacks criteria for determining and reviewing at-risk officers.

In addition to functions expected to be undertaken by the Risk Management Division, LAPD monitors officer conduct (including civil litigation involvement) through the RMC, which meets monthly to evaluate risk factors of at-risk officers who have been referred to the Committee. The RMC assesses the need for additional training, assignment changes or counseling. Representatives from the Risk Management Division participate in RMC meetings, along with all deputy chiefs, the City Attorney and Chief Police Psychologist who directs the Behavioral Science Services. In response to the Panel's inquiry, LAPD managers responded that they were unaware of any formal, written guidelines for determining when and why an officer is subjected to RMC review. It is unclear whether the RMC has a meaningful role in LAPD's risk management system.

7. There is inadequate command accountability for risk management throughout the LAPD.

The cornerstone of any risk management system is its ability to impose responsibility for its effectiveness throughout the chain of command. This must be accomplished through the imposition of standardized periodic management review of risk management data, along with

specific instructions about how the data is to be evaluated and compared to identify trends or patterns. Criteria must be established to identify “triggers” or early warning “flags” and protocols must be established for appropriate management response.

Commanding officers should be required to develop annual risk management plans for their respective units, and regular reviews should be conducted by upper management to ensure the plans are being effectively implemented. In turn, each commanding officer should be held accountable for his/her unit’s risk management performance.

After making inquiries, the Panel concluded there appears to be no written LAPD policies imposing regular or standardized command accountability for risk management concerns. Currently, the frequency and type of management reviews of risk management data appear to be sporadic and undertaken solely at the discretion of individual commanding officers. There are no audits indicating when, or if, such reviews have been, or are being conducted. Further, nearly four years after Commission President Fisher told the Department of Justice that “protocols should be developed” imposing an “affirmative obligation” on managers to act on risk management data, there are no written policies regarding the use of TEAMS data.

In 1998, LAPD announced that command accountability for risk management was to be accomplished through the Department’s newly implemented FASTRAC program.¹⁹⁰ FASTRAC imposes accountability on commanding officers for matters within their scope of responsibility by means of regularly scheduled reviews and comparative analyses of strategies and statistics. While FASTRAC meetings have proven an effective forum for crime prevention purposes, the use of FASTRAC for risk management purposes appears, in actual practice, to be more the exception than the rule.¹⁹¹ Chief Parks has acknowledged that FASTRAC is inadequate to deal with anything more than the general principles of risk management, and that issues relating to specific officer behavior cannot be addressed within the limited capacity of FASTRAC.¹⁹²

Although TEAMS II can provide state-of-the-art technological tools to collect and organize data, it will not in itself create an effective risk management program. In concert with

¹⁹⁰ See LAPD 1998 Report; Administrative Orders Nos. 1 and 3, 1998.

¹⁹¹ FASTRAC focuses primarily on crime trends and responses, rather than risk management.

¹⁹² Interview of Chief Bernard C. Parks (July 31, 2000).

the development of TEAMS II, LAPD must develop protocols for standardized management use of the TEAMS II data, as well as policies establishing command accountability for their implementation. Failure to do so would undermine the effectiveness of even the most technologically advanced systems.¹⁹³

8. LAPD did not coordinate with prosecuting agencies and the courts to identify at-risk officers.

To date, over 103 adult criminal convictions have been overturned as a result of alleged corruption by LAPD officers. This is, of course, inexcusable. Responsibility for criminal prosecutions is divided between two agencies – the Office of the District Attorney for felonies and the Office of the City Attorney for misdemeanors. LAPD officers serve as investigators and witnesses for both agencies. Prior to the Rampart scandal, there was no formalized system for prosecutors to report suspicions regarding an officer's integrity or conduct to the LAPD.

Current management at the District Attorney's Office has stated that there is no record of, nor could they recall, any incident in which the Office made a referral to the LAPD regarding suspicions about an officer committing perjury, filing a false report, or committing other improper acts. At the time of the Rampart incidents, the policies regarding officer integrity were informal, left to the discretion of each prosecutor. There were no established protocols nor written records required. There was no tracking system to keep tabs on particular officers who may have caused suspicions to be raised in more than one case.

Since Rampart, the District Attorney has drafted new guidelines that will make reporting procedures more uniform and require any concerns regarding officer integrity to be communicated to the LAPD. The District Attorney will also establish a tracking/clearing house system to identify problem officers.

The City Attorney's policies regarding the issue of officer integrity were similarly undefined at the time of the Rampart incidents. City Attorney's Office management has stated that although questions have arisen in the past respecting officer credibility, in many instances what appeared to be questionable credibility merely turned out to be laziness or faulty memory. A small number of referrals of dishonest officers have been made to LAPD in the past, but there

¹⁹³ The Panel has been informed that policies regarding management use of TEAMS data will be developed in conjunction with the implementation of the TEAMS II system, which LAPD management estimates will be fully implemented in two years.

was no policy defining to whom the referral was made nor any requirement that it be made in writing.

Since Rampart, the City Attorney has instituted formal procedures requiring that any suspicions regarding an officer's integrity be reported in writing to authorities up the chain of command in both agencies, including the City Attorney and both the LAPD Internal Affairs Group and the Inspector General of the Police Commission.

It appears that judges have dealt with their doubts about officer integrity by pressuring prosecutors to dismiss or plea bargain cases, or by broadly construing disclosable *Pitchess* material (relevant officer personnel information),¹⁹⁴ rather than by reporting these issues to LAPD supervisors, referring the officer for possible prosecution, or in any other way exposing or punishing the misconduct. Although LAPD asserts there is a judicial liaison with whom the judges can communicate to report concerns regarding officer testimony, the judges we spoke to seem unaware of such a liaison.

9. The LAPD is unable to provide information regarding its officers in response to court-ordered discovery.

In many cases, defense counsel seek disclosure of complaint information about the police officers involved in the investigation, to be used at trial to impeach the officers' testimony. The complaints generally involve claims of excessive force, dishonesty, or improper tactics (such as coercing confessions).

Prior to the *Pitchess* decision, personnel information about police officers was considered absolutely privileged and police agencies would refuse to disclose it in criminal cases. The California Supreme Court held in *Pitchess* that once the party seeking disclosure shows materiality and good cause, the court must order relevant complaints disclosed for the preceding five years. This decision was later codified in California Evidence Code § 1043 *et seq.*

Due to the Rampart scandal, there has been a substantial increase in the number of *Pitchess* motions being filed. Several months ago, a judge was holding a routine *Pitchess* hearing. The LAPD custodian of records told the judge that there were no complaints against a particular officer in the past five years. Coincidentally, the judge happened to remember that this particular officer had just been *indicted* the day before. The judge began to inquire how that, and

¹⁹⁴ *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, 113 Cal.Rptr. 897, 522 P2d 305.

the circumstances underlying the indictment, could have been missed during a search of police records for complaints.

After a series of hearings, the following emerged:

- Complaints against police officers are not kept in a single location.
- When responding to a court order under *Pitchess*, the “custodian of records” does not actually search all of the files where complaints might be located. In fact, the custodian in this case did not even know about the existence of some of the files.
- LAPD has no central index or registry of complaints against officers, so there is no simple or efficient way to search for this information.
- At present, the LAPD system of responding to court-ordered *Pitchess* discovery is totally inadequate. As a result, defendants are deprived of important information about the credibility of key police witnesses. The inability of the LAPD to respond to this discovery may well jeopardize some of its cases in the future.

10. LAPD does not have an effective means for tracking civil litigation and civil litigation is not a significant component of LAPD’s risk management program.

Different risk management issues are raised by civil litigation against the LAPD and its officers. The Department is represented in these suits by the City Attorney’s Office. Yet, despite its status as a “client,” the LAPD has traditionally played a very limited role in resolving cases against it. As a result, valuable lessons and information that could play a significant role in risk management for LAPD are lost. In many cases, supervisors of officers named in such litigation are entirely unaware of its existence. Additionally, there is little LAPD involvement in the actual financial ramifications of officer conduct. To the extent that LAPD personnel have no direct knowledge of or involvement in the financial impact of these cases, there is less motivation to take steps to reduce future loss.

Keeping track of civil litigation against LAPD officers is critical to the Department. The Los Angeles Daily Journal reported that 21 out of the 28 officers at the heart of the Rampart scandal had previously (*i.e.*, before Rampart) been sued for civil rights violations or personal

injury, resulting in at least 108 civil lawsuits against the City.¹⁹⁵ Had the LAPD implemented adequate methods for tracking officer-involved litigation through a meaningful risk management system, troubling patterns of conduct could have been revealed, thus permitting the opportunity for proactive preventive steps.

In 1991, the Christopher Commission recommended that the LAPD “establish procedures to monitor the results of civil litigation and make use of the information obtained.”¹⁹⁶ Yet, nine years later, the LAPD’s ability to track civil litigation by computer for its own risk management purposes is very limited.

In its 1998 Report on Risk Management, LAPD described an automated system, Department Employee Litigation Tracking and Analysis (DELTA), which was to be implemented in coordination with the City Attorney’s Office to track civil litigation involving LAPD officers. Information gathered by this Panel indicates, however, that DELTA is not current, not reliable and not accurate. In early 2000, LAPD’s Risk Management Division scrapped DELTA in favor of a new, more extensive data collection system.

While the LAPD’s Risk Management Division is trying to develop procedures to gather civil litigation information, it currently lacks a fully functional system to track its civil litigation. In early 2000, the Division created its “Litigation Information Sheet” which it now uses when a new case is filed against the Department and/or its officers. The Litigation Information Sheet is the Division’s first step towards “tracking” a new civil case. However, the Division lacks (a) infrastructure (*e.g.*, computers); (b) a full function case management software program to store and retrieve the data from the Litigation Information Sheet; and, (c) adequate number of personnel to input data.¹⁹⁷ Moreover, even under the new system, commanding officers do not always know who in their command is a defendant in a civil lawsuit.

The information being gathered in the Litigation Information Sheets is similar to the data expected to be available through TEAMS II. In the interim, the Division is in the process of

¹⁹⁵ Los Angeles Daily Journal, May 26, 2000, at 1.

¹⁹⁶ Christopher Comm. Report, at 60.

¹⁹⁷ LAPD currently has between 600–800 vacancies, mostly comprised of administrative and clerical positions, which, according to Chief Parks, accounts for the backlog. The Department is considering the option of outside vendors to provide clerical help for TEAMS II data input. (Interview of Chief Parks, *supra*).

creating its own software program for its stand-alone computer to begin storing the data. Currently, none of that data is available on a networked computer system nor is it stored in an adequate case management system. Information pertaining to pending or closed cases prior to January 1, 2000 is not stored electronically to track or analyze the Department's historical experience relative to certain causes of action or costs associated with those past cases.

Currently, the LAPD relies on information provided by the City Attorney regarding civil litigation against the Department. When civil litigation is commenced, the City Attorney inputs the case information into its "CLS" internal computer tracking system, which is indexed by names of parties, claims, witnesses, organizations, projects, etc., as opposed to being "event" or "incident" based. The CLS system is used to store, track and retrieve data on all cases involving the City, not just those pertaining to the LAPD, and is not accessible electronically by the LAPD.

After entering the case data into CLS, the City Attorney then prepares an Initial Report to LAPD outlining the nature of the case and other pertinent details. The City Attorney also prepares quarterly reports on the status of LAPD cases, and a Final Report upon the resolution of a case. It also submits monthly reports to the LAPD and the Police Commission on cases that have already been resolved by settlement and/or judgment.

Upon receipt of the Initial Report from the City Attorney, the LAPD's Risk Management Division assigns an investigator to the case who works with the responsible attorney from the City Attorney's Office for the life of the case. This "team" forms the day-to-day link of information and coordination between the LAPD and the City Attorney. This involves exchange and gathering of information, responding to and propounding discovery, scheduling witness interviews and depositions, and trial dates and proceedings. The head of the Risk Management Division meet monthly with its investigators for a status report on civil litigation cases. In addition, Division personnel attend the status meetings at the City Attorney's Office to stay abreast of the pending cases. The foregoing reports and procedures, however, are used only for case tracking purposes and not for risk management purposes.

Communication between the Investigative Section of the Risk Management Division and the Offices of the City Attorney has improved substantially due to the recent establishment of a specialized "Police Division" within the City Attorney's Office. The two groups are housed together and thus are able to communicate regularly regarding case preparation.

Steps are now being taken by the Department to incorporate the lessons from civil cases into the LAPD's risk management oversight functions, including improving officer training to reduce the risk of future cases based on the same officer conduct. The Risk Management Division plans to generate "close-out reports" at the resolution of cases for this very purpose. These reports should include detailed procedures for the purpose of reducing the reoccurrence and costs of similar lawsuits.

11. The LAPD has a limited role in developing the litigation strategy and settling civil litigation.

When it comes to case strategy or resolution, LAPD's role is currently very limited. In theory, as the "client" of the City Attorney, the LAPD is supposed to be directly involved in the decision to settle a case or go to trial. In practice, there is a difference of opinion as to whether the LAPD is adequately informed of a settlement proposal before it is accepted by the City Attorney's Office or is presented by the City Attorney's Office to the City Council or the Council's Budget and Finance Committee for approval. Procedurally, monetary limits determine the requirements for authorizing settlements of LAPD cases. Most of the cases handled by the City Attorney's Office are settled for less than \$50,000, and, in those situations, settlement can be authorized by the City Attorney's Office without approval by the City Council. Settlements between \$50,000 and \$100,000 require approval by the Budget and Finance Committee of the City Council. Settlements in excess of \$100,000 require the preparation of a "Council Report" submitted to the LAPD and the City Council and the approval of the Budget and Finance Committee and the full City Council. The Mayor's approval is deemed given unless he objects within 10 days after the matter is approved by the City Council.

Some sectors of the LAPD feel they are ill-informed, left out of the decision-making process altogether or notified too late in the process to have any meaningful input into the decision to settle a case or go to trial. There is a sense within the LAPD that it lacks sufficient control over the resolution of its civil litigation cases and is sometimes forced to acquiesce to settlements for political reasons.

Communication between the City Attorney and the Department regarding case strategy and resolution needs to be improved substantially if the Department is to be held accountable for losses that occur in litigation arising from officer conduct. Otherwise, the Department can simply cite to tactical decisions by counsel for negative results in litigation rather than confront

the officer misconduct that gave rise to the suit. While some improvement may be realized by increasing personnel, improving computer systems and refining procedures, the most important element is to develop a “team” attitude within the Department and City Attorney’s Office so that both offices function as full partners in the effort to reduce the number and fiscal impact of cases.

12. The Department is not accountable for the costs of litigation.

The CLS system used by the City Attorney tracks monetary settlements and judgments, which are included in reports to the LAPD. The settlements and judgments are “charged back” to what is referred to as a “Memo Fund.” The “charge back” is an internal procedure to track the amounts of money paid out to civil litigants against the LAPD. No actual payments or budget debits occur as a result of this so-called charge back system. Instead, all legal costs, including any settlement or judgment, are paid from the City’s General Fund in the City Attorney’s budget. The “Memo Fund” can be used by the City Attorney’s office to budget future annual costs of civil litigation involving the LAPD. However, at present, such civil litigation payouts are not actually assessed against the LAPD, and most LAPD personnel are unaware of the financial amounts involved.

A “charge-back” payment system would require that costs of litigation and legal settlements against LAPD be paid out of LAPD’s budget directly, rather than out of another City department’s funds. The theory of a charge back system is that if the LAPD would have direct responsibility for paying the costs of litigation against it, it would have a direct incentive to prevent and reduce such costs through proactive risk management strategies.

In 1998, Police Commissioner Dean Hansell proposed increasing the LAPD’s control and accountability over litigation to reduce the number of incidents and the cost of claims/lawsuits against the LAPD. Commissioner Hansell’s recommendations are worth serious consideration. Simply stated, the LAPD would have greater control over (a) the management and resolution of claims/litigation, and, (b) selection and supervision of legal counsel to handle its cases (selected from a list jointly approved by the LAPD and the City Attorney. In exchange, the cost of defense, including attorney’s fees and any settlements and judgments, would come from the LAPD’s budget. To the extent that litigation costs are less than the amount budgeted, the LAPD would have additional funds available for its operations, training or other purposes; to the extent they are more, it would have to come out of other operations. An excess liability/stop loss policy must be in place to protect against catastrophic losses.

Los Angeles County and its Sheriff's Department have implemented a charge back system for litigation involving the Sheriff. Based on data from its Risk Management Bureau, the Sheriff's Department is assigned an annual budget from the County to cover the cost of anticipated litigation expenses and losses in the following year. Attorney's fees, litigation costs, settlement payments and judgments are charged against that budget each year. If an unexpected loss occurs that exceeds the budget, it is paid from the County's general fund.

In exchange for this fiscal accountability, the Sheriff's Department's Risk Management Bureau manages, tracks and controls litigation with the County Counsel. The Sheriff's Department remains informed of the status of its cases and participates in the decision-making process to settle cases or to proceed to trial. The County Counsel reports on cases quarterly including the assessment of costs for each case so that the Risk Management Bureau can track costs against its budget.

Monthly meetings are held between the Sheriff's Department's Risk Management Bureau and the County Counsel's office (or designated outside counsel) to discuss cases, including settlement. At the end of each case, the Risk Management Bureau conducts a case assessment to improve its deputy training and internal procedures.

Recommendations

- 6.1. The TEAMS II system must be designed to permit standard and timely data collection, and ready trend reporting, with express protocols for the dissemination and use of TEAMS II data.**
- 6.2. The Department should implement standardized policies imposing command accountability for risk management and identifying risk management as a core management obligation with a concomitant commitment of resources.**
- 6.3. The Department should reconfigure its Risk Management Division as a group with increased visibility and authority, reporting directly to the Chief of Police.**

The Risk Management Division should be staffed with experienced sworn and civilian personnel able to develop and implement risk management policies, including protocols for use of TEAMS II data, and to conduct regular risk management audits. A Division within the Risk Management Group should be assigned to analyze TEAMS II data for use by LAPD management and to distill the TEAMS II data into useful risk management information. The wealth of data provided by a state-of-the-art tracking system will be of limited usefulness if the

LAPD does not have the capacity to identify and condense that data into workable form for supervisors up through senior management. Since risk management is in its infancy at LAPD, outside expertise must be sought.

- 6.4. The Department should create and circulate clear criteria for identifying “at-risk” officers for review by the Risk Management Committee.**
- 6.5. Pending the implementation of TEAMS II, the Department must develop and distribute written policies regarding the use of current TEAMS data.**
- 6.6. The LAPD must implement standardized policies, including the use of a management accountability infrastructure similar to FASTRAC, imposing command accountability for risk management, as recommended by the Christopher Commission.**
- 6.7. A high ranking Judicial Liaison must conduct an active program of outreach to bench officers in order to be identified as the point of contact for communication of concerns regarding unacceptable police conduct.**

The Judicial Liaison officer would be responsible for initiating the resulting Department personnel complaints. To ensure appropriate investigation, a formal response identifying the steps taken to seek to verify the complaint should be required.

- 6.8. LAPD supervisors should periodically be present in court to observe testimony by police officers.**

This practice, which used to be in effect at LAPD, is probably the best means to immediately identify officer integrity issues to LAPD supervisors. While this recommendation raises the issues of understaffing, it is imperative in a post-Rampart LAPD that this issue be immediately addressed.

- 6.9. The LAPD should implement a case management tracking system that directly interfaces with the system used by the City Attorney’s Office.**

It should contain the necessary and appropriate historical data, and further develop protocols for the use of such information as a risk management tool, *i.e.*, to prevent future similar incidents or lawsuits. The legal costs and financial exposure from ongoing cases must be considered, tracked and reported by the Risk Management Division to the Department at least quarterly.

- 6.10. The Department should establish procedures for improved coordination and communication with the City Attorney's Office on the strategy and resolution of cases and enhance the Department's involvement over the resolution and disposition of cases against employees, the Department, and the City arising from employee conduct.**
- 6.11. Information from closed cases should be incorporated into officer training and used to improve Department policies and procedures on an ongoing basis.**
- 6.12. The Commission should assess the adoption of a charge-back system for costs of litigation, including settlements and judgments, which will impact the budget of the Department to ensure that all levels of LAPD recognize the primacy of serious and continuing risk management efforts.**

The Panel believes that an actual charge back system that holds the LAPD accountable for the costs of litigation, if coupled with increased LAPD case control, may have beneficial effects by improving officer conduct, improving management supervision and training, reducing the number of complaints and litigation, creating more cost-effective litigation strategies, reducing settlement payments and improving trial results. Increasing LAPD's involvement over civil litigation, however, would require amendments to the City Charter to give LAPD more settlement authority (currently exercised by the City Council) and the right to select legal counsel other than the City Attorney. Moreover, a "safety valve" would need to be established for significant unexpected losses to ensure that LAPD could appeal to the City Council for excess funding and thereby avoid a decrease in its services to the public.

To implement such a charge-back system, the LAPD needs: (1) a full function case management system that can, among other things, forecast how much money will be needed to settle and try civil cases from year to year; (2) an annual budget to cover anticipated claims and litigation; and, (3) to formally incorporate into the evaluation of its Risk Management Division managers the degree to which it effectively manages claims and litigation in accordance with an accountability system rewarding the Division for successfully reducing incidents and costs from year to year.

CHAPTER 7

PERSONNEL

Introduction and Summary

The Rampart scandal raises questions not only about how LAPD officers go about their work and how they are managed and supervised, but also about how those officers and their supervisors are selected and trained in the first place. Elsewhere in this report we discuss one important aspect of this question: how the LAPD tries to teach its officers the skills of ethical conduct. Here we address the broader questions of hiring, training, and promotion at the LAPD.

In pursuing these questions, members of the Panel obtained information and data from representatives of the Personnel Department, the Civil Service Commission, the Police Department, the Board of Police Commissioners, the Mayor's Office, and the City Council. We compared the LAPD's requirements to the requirements of other major metropolitan police departments in the United States, and we examined the responses to episodes of corruption of other metropolitan law enforcement organizations.

We found no evidence that minimum hiring standards or formal promotion procedures at the LAPD are seriously flawed. We do, however, agree with the Board of Inquiry that screening and investigation of LAPD applicants should be significantly strengthened, and we recommend greater openness regarding the Department's criteria for promotion. With respect to the critical task of training, the Department has made significant improvements over the past ten years and shows real commitment to making further progress. Much room for improvement remains, however. The Department has not given its Director of Police Training and Education adequate resources or adequate influence. Academy training still is too compartmentalized, and still slights problem-solving skills. Field Training Officers still are inadequately screened and inadequately trained. In-service training remains weak, although the Department has promising plans for improving it.

Findings

1. The LAPD's minimum eligibility requirements do not need significant revision.

The minimum eligibility requirements of the LAPD are broadly similar to those of comparable police departments in the United States, with a few small exceptions. Both New York and Dallas, for example, have requirements for college credits, and some departments

permit police officers to be considered at an age younger than 21. There are obvious advantages to recruiting police officers with at least some college education, but adding such criteria could make it more difficult for the Department to satisfy its hiring goals. We do not recommend major modification of the LAPD's minimum eligibility requirements.

2. Background investigations of LAPD applicants are conducted by officers with inadequate training and experience.

The Board of Inquiry noted a variety of deficiencies in the Department's screening and background investigation of job applicants. We largely agree with their findings and recommendations in this area, particularly with regard to the importance of conducting better background investigations.¹⁹⁸ These investigations, we note, were historically conducted by officers at the rank of Sergeant II or Detective II. Now the background unit is staffed largely by Police Officer IIs and Police Officer IIIs. These officer have significantly less experience, particularly in interviewing. As a result, background investigators are currently being trained "on the job" while working on actual investigations. Experience in investigative techniques should be obtained before investigators undertake the difficult and sensitive job of probing the background of applicants.

3. Screening and selection of new LAPD officers is the joint responsibility of the LAPD and the City's Personnel Department.

Historically, the City Charter has vested the Civil Service Commission and its Personnel Department with responsibility for establishing classes of positions, adopting rules for the appointment of job applicants to civil service positions, developing and administering competitive examinations to test the fitness and qualifications of examinees to carry out the duties of said positions, and preparing a register or listing in order of examination score, of persons eligible for appointment.

The Board of Inquiry recommends considering a transfer of responsibility for psychological testing of LAPD applicants from the Personnel Department to the LAPD. The Board of Inquiry also recommends that the Chief of Police should have sole, ultimate responsibility for determining the eligibility of applicants and selecting the best candidates. Although the Panel concurs with the other recommendations the Board of Inquiry makes

¹⁹⁸ BOI Report, at 332-34.

regarding screening and evaluation of LAPD applicants, we are unconvinced of the need to transfer any authority from the Personnel Department.¹⁹⁹

Members of the Panel examined the collaborative pre-employment decision-making by the Police and Personnel Departments reflected in the records of the pre-employment testing and background investigations of the 14 officers profiled in the Board of Inquiry Report and an additional 20 officers implicated in the Rampart scandal. We found no evidence that the Personnel Department or the Civil Service Commission ignored or misapplied their applicable standards and procedures over the objection of the LAPD. To the contrary, with rare exception, the Police Department background investigators either failed to recommend disqualification or recorded general agreement with the eventual eligibility determinations of the Personnel Department. Nor are we convinced that the Police Department would do a better job than the Personnel Department in carrying out psychological screening of LAPD applicants.²⁰⁰

Instead of a concentration of authority, the LAPD and the Personnel Department should continue to work together to improve screening and evaluation of LAPD applicants. Among other things, the departments may wish to include better ways of sharing information and the possibility of developing consistent, job-related guidelines for appeals of adverse psychological evaluations.

4. The LAPD has improved its training programs and is committed to further progress.

Training of LAPD officers has four components: recruit training in the Police Academy, recruit training in the field during the probationary period, in-service training of all officers, and training of experienced officers with command, supervisory or specialty assignments. Each of

¹⁹⁹ We note that the Board of Inquiry's recommendations regarding expanded use of polygraph examinations appear to have been addressed. On August 4, 2000, the City Council approved funding for several recommendations incident to the implementation of the Police Department's new polygraph examination program for police officer applicants. Under this program, polygraph examinations will be administered to all candidates on a routine basis.

²⁰⁰ For purposes of comparison, we examined the responses to episodes of corruption by other metropolitan law enforcement organizations. A common response was a review and tightening of police officer hiring practices and/or standards. None of the municipalities studied elected to shift ultimate responsibility for the pre-hire examination process away from the personnel specialists, to the chief of the law enforcement organization.

these areas of training provides critical opportunities for the Department to influence the behavior, attitudes and integrity of its officers.

The training function within the Department is overseen by the Commanding Officer of the Training Group, a subdivision of the Human Resources Bureau. Within the Training Group, the Training Division oversees the programs at the Academy, and the Continuing Education Division designs and implements in-service training. The Director of Police Training and Education, a position formerly known as the Police Training Administrator, is also within the Training Group and is primarily responsible for evaluating the effectiveness of, and guiding improvements to all Departmental training. The services of the Professional Advisory Committee, a group of human resources professionals who volunteer their efforts to consult with the Department on issues involving human relations training, are available to the Training Group.

Training within the Department has undergone subtle, fitful, though generally positive changes in the ten years that have followed review by the Christopher Commission. The Panel was impressed by the commitment of the sworn and civilian Department members charged with the training functions within the Department at the command level and was particularly pleased with the continuity of vision that all of those persons brought to their respective tasks. The command staff within the Training Group spoke with interest and enthusiasm of experiences and ideas they had received from other departments and agencies as well as from academics in the field of adult learning. The Panel appreciates the review conducted by the BOI and supports fully each of the recommendations (82-101) made by BOI with respect to training.

5. Further improvement of training at the LAPD is threatened by the Department's failure to give its civilian Director of Police Training and Education adequate support and influence.

Training at the LAPD took a particularly important step forward in 1998, when Chief Parks appointed Dr. Robin Greene as the Department's new Director of Police Training and Education (DPTE) – an office which had been left vacant for four years following the departure of the first Director in 1994. Writing in 1991, the Christopher Commission regarded the then-imminent appointment of a professional educator to oversee LAPD training as a critical step toward reforming the Department. Chief Parks deserves great credit for his recruitment of Dr. Greene.

Unfortunately, the Department has provided the DPTE with scant resources to undertake the critical tasks recommended by the Christopher Commission. The DPTE does not have access to assistants with backgrounds in education to assist in curriculum evaluation or a senior management analyst to track the multitude of projects within the Training Group. Moreover, she does not have access to a budget sufficient to permit her to retain the services of outside experts or graduate student interns.

Nor has the Department given the DPTE sufficient influence to allow her to carry out meaningful reform. The Christopher Commission understood that the professional educator hired as police training administrator would "serve as second in command of the Academy."²⁰¹ The Department, however, has relegated the DPTE to the status of an in-house consultant, sometimes calling on her to develop pieces of curriculum and taking her away from the broader tasks of "reviewing and assisting in the development of training for Department employees," by "conduct[ing] analysis on curriculum, teaching techniques and effectiveness of the training that is delivered."²⁰² The undermining of the proper role of the DPTE has led to situations in which the DPTE is not involved in the evaluation of crucial projects within the Training Group, is not well-positioned to evaluate all of the training within the Department, and cannot fulfill the function for which the position was designed.

The involvement of the DPTE in the decision-making concerning all critical training functions is important not merely for the substantive expertise she brings to the tasks at hand, but for the continuity provided by the ongoing, long-term involvement of a senior manager within the Training Group. The Department has not implemented the Christopher Commission's recommendation that the Academy's commanding officer "serve a minimum period of time . . . such as three years," and the failure is understandable.²⁰³ Commanders within the Department generally rotate assignments every two years, and a requirement that a commander assigned to Training remain in that post 50 percent longer than other commanders remain in their posts seems both difficult to implement and susceptible to the perception that the post is less desirable

²⁰¹ Christopher Comm. Report at 122 (1991).

²⁰² <http://www.lapdonline.org/organization/hrb/tg/pol_train_admin.htm> (visited Nov. 1, 2000).

²⁰³ Christopher Comm. Report at 135.

for those interested in career advancement. Consequently, given the fact that the sworn leadership within Training Group cycle out of their assignments on a regular basis it is important that the DPTE have sufficient profile and responsibility with the Training Group to maintain the continuity of her work.

6. Academy training continues to slight problem-solving skills and to be overly compartmentalized.

Academy training lasts 28 weeks and involves 1,064 hours, including 78 hours of "administrative activities" ranging from inoculations to graduation ceremonies. Only 664 hours account for instruction mandated by the Commission on Peace Officer Standards and Training (POST), the state agency that sets minimum selection and training standards for California law enforcement. In terms of raw hours of instruction, the Department thus invests more in training than the minimum required by the state, although some major metropolitan departments invest even more. The Boston Police Department program, for example, comprises 1,500 hours at the Academy, and Philadelphia recruits spend 1,101 hours over eight months.

Advanced training is provided in command, supervisor and specialty schools. Instruction ranges from Command College to Watch Commander School, to special instruction in SWAT tactics, gang awareness, and homicide investigation. These classes are offered to officers as they promote or are assigned to certain specialized units.

The bulk of Academy training is devoted to the tactical aspects of a police officer's work. Additionally, the Academy continues to provide about as much instruction on physical fitness as it did ten years ago, while also providing instruction in Spanish (81 hours), human relations (83 hours) and professionalism and ethics (32 hours). Recently, there has been an increased focus on training in the areas of human relations and a re-introduction of a post-graduation field ride-along (currently 16 hours of Academy instruction).

The continuing focus of the Academy on tactics is understandable and appropriate, but the Department continues to struggle with historical patterns that favor training in physical prowess over critical thinking. The Department's efforts to increase training of problem-solving skills still must overcome a mindset among recruits and trainers alike favoring training in firearms skills over training in dealing with human relations issues. Dr. Greene points out that following orders is a skill called upon in a minute amount of police work, yet the Academy has historically functioned in a militaristic model seemingly designed to train good order-takers.

While there is nothing wrong with military-style decorum, the critical function of training is to prepare police officers to think critically – a different skill set from order-following.

This mindset results in reports of a significant cultural resistance within the Department to training innovations. Many within the Department are simply more comfortable with the historic lecture-by-a-subject-matter-expert model of teaching and learning. Some patrol officers expressed the opinion that the lecture content at the Academy sometimes seems designed for risk-management, *i.e.*, the Department can minimize its legal exposure for an officer's errors by showing the officer was instructed to act differently. More troubling, there is a tendency in LAPD's current curriculum to compartmentalize training, for example, to deal with training on communication skills as a separate component from training on how to recognize probable cause or how to book an arrestee. Tactical instruction in search and seizure tends to begin with instruction on legal standards for "reasonable suspicion" and end with the arrest. It needs to carry the arrest process through to booking, report writing, and reporting an arrest to a supervisor. It needs to incorporate real world experience, including what to do if one's reasonable suspicion proves wrong. Importantly, training needs to develop critical judgment using scenarios from field experience and use those scenarios to allow trainees to investigate the ethical implications of the choices they make as officers.

One captain put it this way: "Training emphasizes tactics and procedures, not judgment. This is a principal failure of the Department's culture. Training [for young officers] does not value judgment as opposed to knowledge of the rules." Another stated, "LAPD is more interested in rules than developing [good judgment]. . . . Officers should be encouraged to think critically and not be afraid to make the hard calls.

Still, the Department over the past ten years has been developing the critical recognition that recruit officers are not preparing for combat so much as they are preparing to make mature judgments arising out of and impacting complex human interactions. The Department appears genuinely committed to training those officers in a manner that develops their judgment.

7. Screening and training of Field Training Officers remains inadequate.

Field training follows Academy training during a probationary period that ends 18 months from the officer's date of hire. During this time, Academy graduates work under the immediate supervision of experienced officers charged with instruction in patrol functions and who provide frequent performance evaluations.

The Department has not done all it should to ensure that Field Training Officers (FTOs) build on and complement probationers' Academy experience. FTOs are selected on the basis of their seniority and skills as officers, not necessarily on their capacity to mentor and teach. Moreover, despite the Christopher Commission's recommendations, the Department has not yet adopted a policy requiring five years minimum field experience, or generally disqualifying FTOs with sustained complaints of violations of Departmental policies.²⁰⁴

It may be difficult to require FTOs to have five years of patrol experience, given the youth of the average patrol officer. At five years, moreover, many of the most competent officers may seek promotion to sergeant, making FTO a second choice for the Department's best people. But the failure to implement the Christopher Commission recommendations relating to sustained misconduct is disquieting and inexcusable – particularly with regard to cases where an FTO is the subject of numerous complaints involving allegations of misconduct relating to lack of integrity, of bias or of excessive use of force.

As important as the selection of FTOs is their training. FTO training, like Academy training, needs to focus on the development of instructors equipped to teach critical thinking and proper judgment, and instructors who will integrate their teaching with Academy instruction rather than undermine Academy instruction. Some FTOs still instruct their trainees to "forget what you learned at the Academy," or challenge trainees who follow procedures taught at the Academy. Significantly, the FTO training course has recently been updated to include training on the skills of ethical decision-making. The Panel recommends this be continued and expanded. The course's components on adult-teaching methodology and ethical decision-making should be implemented as a continuing education course for all active FTOs.

²⁰⁴ *Id.* at 135-36.

8. In-service training at the LAPD remains weak, but the Department has taken significant steps toward improving it.

In-service training at the LAPD occurs both centrally and at the bureau and division level and can range from roll call training to refresher courses, usually focused on "perishable skills" like firearms training and driving tactics. Many officers the Panel interviewed were candid in their assessment of the continuing failure of the Department to undertake in-service training in a meaningful way. It continues to be the case that many officers in the field have not kept current in meeting their POST requirements in continuing education and many officers are placed in supervisory or managerial positions or assigned to specialized units without receiving any prior training in the skills their new positions demand.

Promisingly, however, the Training Group has recently developed a comprehensive in-service training program for all sworn members of the Department. In developing this program the Training Group has drawn on resources from within and outside the Department, including LAPD commanding officers and bureau training coordinators who are working with experts from UCLA, the City's Human Relations Commission and members of the community. As currently envisioned, the new program will provide significant progress in reinforcing the connection between Academy training and field experience, and will draw significantly on the scenario-based training concepts the Department has been developing.

In this program, each member of the Department will receive four days of training, two days initially, followed by two more days approximately eight months later. The training is conducted in the context of an officer's own working groups and seeks integration of training in critical decision-making skills and issues of officer ethics and integrity with training in the tactical skills of communication, firearms, driving, and law. The goals of this training program are to provide uniform training for all personnel, the implementation of current techniques in adult education, the embedding of critical thinking and ethical decision-making into all aspects of police work; and the creation of a flexible training-delivery process that can be updated regularly with contemporary organizational goals and objectives. This in-service training program holds great promise for the Department and its success should be a top priority for the Department.

9. The LAPD's formal civil service promotion procedures do not appear to have undermined effective management and supervision, but the secrecy surrounding internal promotion criteria has undermined the perceived fairness of the system.

Elsewhere in this report we note widespread concerns by LAPD officers that the Department's middle managers often are promoted too fast and lack adequate experience in the field. We note, too, prevalent concerns that the things officers need to do to ensure their continued advancement within the Department are often inconsistent with proactive and imaginative policing. Nonetheless, we found no evidence that defects in the LAPD's civil service promotion system contributed to the Rampart scandal, or that such defects have contributed to other breakdowns in command or supervision.

This is not to say, however, that the promotion system cannot be improved. The perceived fairness of the system has been undermined by secrecy surrounding the criteria used in making promotion decisions. Moreover, the system depends heavily on the Department's records of an officer's history, particularly TEAMS data, and – as we explain elsewhere in this report – the Department has not done enough to ensure these records are accurately maintained and regularly updated.

A subject of deep concern to officers is the criteria used by the Department to rank officers for promotion within a civil service whole score band. The score band represents that all officers in it are essentially equally qualified at a certain level according to the promotional examination. In order to determine who gets promoted first, the Department ranks officers by an internal process of a second personnel “package review.” The Department considers the ranking to be “an examination process,” and, therefore, confidential. The criteria have never been seen by anyone outside the Department or by the Police Commission. The Panel wished to examine the ranking criteria to determine if they are job-related, equitable and fairly administered. Because the Department did not provide the materials requested by the Panel for evaluation, the Panel cannot comment on officers’ expressed concerns about favoritism playing a primary role in the promotional process.

10. LAPD officers need more and better supervision.

One chief, 8 deputy chiefs, 19 commanders and 67 captains lead and manage the Department’s 9,300 officers. Two captains in each of the 18 Area stations manage between 300-400 officers who work around the clock. Years ago, when the Department had only 5,500 officers, each Area had three captains. When the department added more than 3,000 uniformed

officers as part of the city's Public Safety Plan, it did not add a commensurate number of captains, commanders and civilians to support the expansion.

Almost every captain described an environment where they are required to perform so many administrative tasks that they lack adequate resources and time to provide the necessary leadership to the field supervisors and officers whom they manage. As one captain put it, "being an area captain used to be a big deal," "an impressive job." It has become "more of an administrative position [in which] I'm pushing paper and doing reports most of the time [and] management of sergeants and field officers is not a recognized criteria in my review." Many captains reported regularly spending 15 % of their time on board of rights hearings. One captain reported months where he spent more than 75 % of his time on board of rights hearings.

Our investigation revealed that, at least in some parts of the Department, staff officers rarely attend roll call, post-operation critiques or field operations. This absence is regretted by captains, sergeants and field officers who believe that more visible leadership by staff officers will boost morale, give officers a sense that their unit is part of a larger culture, and reinforce the Department's commitment to ethics and integrity.

Sergeants report they have received and continue to receive spotty training, which is often deferred until well after they have been promoted. They report that ongoing Department-wide training for first-line supervisors is practically non-existent. What little training exists fails to emphasize the development of leadership skills. It is rare that sergeants are given the opportunity to learn away from their Area stations, and the Department seldom uses outsiders to train its officers. Like the captains to whom they report, sergeants in specialized units receive administrative assignments that often take them away from their principal responsibility – supervising officers who work in the field. As we note elsewhere in this report, a common complaint is that the 1.28 Personnel Complaint system imposes a tremendous burden on supervisors with a corresponding detrimental impact on field supervision. If Rampart went undetected, in large part, due to a lack of vigilance by leaders and managers and the inability of first line supervisors to control and influence the members of the CRASH unit, then the observations of the officers, captains and sergeants described above, mean that the Department is still at risk. The absence of consistent supervision can be a substantial risk factor, if not a prescription for disaster.

Recommendations

- 7.1. The LAPD should conduct more thorough background investigations on job applicants, and the investigations should be assigned to officers with more training and experience.**
- 7.2 Responsibility for screening of new LAPD officers should not move to the LAPD from the City's Personnel Department. Instead the two departments should work together to improve evaluation of applicants.**
- 7.3. The Department should give its Director of Police Training and Education significantly greater support and influence.**

The DPTE should receive funding and authorization to hire two or more individuals with college or university degrees and experience in training evaluation, instructor development or curriculum design. The DPTE should also be able to work directly with three sworn officers of supervisory rank assigned to her office and with appropriate expertise in conducting field studies and audits of ongoing training within the Department and the ability to help integrate adult learning methods with the core competencies of police work. In addition, the DPTE should have a full support staff, including a senior management analyst to manage the office, and sufficient secretarial support. The DPTE's office should be budgeted sufficiently to permit access to resources outside the Department, including interns, participation in conferences and retention of professionals to evaluate training in specific subjects like ethics and foreign languages. The Department should ensure that the office of the DPTE is at the same command level as the Commanding Officer, Training Group, such that the DPTE works in partnership with the Commanding Officer, Training Group and reports directly to the Deputy Chief who commands the Human Resources Bureau. The DPTE should have regular, institutionalized access to the Chief of Police.

- 7.4. Academy training should be further integrated, and should teach problem-solving skills as well as tactics.**

The Department needs to increase its efforts to de-compartmentalize its tactical training, and, more particularly, to ensure that issues of ethical decision-making and human relations are integral to training in the tactics of policing. The Department should continue its recent movement towards scenario-based training that teaches not only the "hows" of police work, but the "whys" and "what ifs." In short, training must develop critical judgment using scenarios

taken from actual field situations. In addition, as we discuss in more detail elsewhere in this report, the instruction must require trainees to explore and understand ethical implications of the choices they make as officers, and the ethical component of the training must be integrated more effectively with the other components.

7.5. Field Training Officers should be better screened and better trained.

Officers with records of sustained misconduct – particularly officers implicated in repeated incidents demonstrating lack of integrity, bias, or excessive force – should be ineligible to serve as Field Training Officers. Field Training Officers should receive training not only in skills of ethical decision-making, but also in teaching new officers how to apply what they learned in the Academy.

7.6. The Department's new in-service training program should be implemented as soon and as fully as possible.

7.7. The Department should disclose its promotion criteria.

To allay concerns of unfairness, the Department should publish a full description of the processes and criteria used in making promotional decisions, including the criteria used to score the promotional candidate's package review. Letting candidates know the specific experience and job skills the Department values will also encourage officers to obtain the necessary experience and skill sets in the years prior to eligibility for promotion.

7.8. The Department needs additional supervisors.

The Department does not have enough senior managers. There is a strong need for an additional captain per Area. Additional resources must be found to add a sufficient number of captains and commanders to the Bureau and Chief's staff to strengthen the Department's ability to observe and audit specialized units. Further, the Department must address the impending shortage of qualified supervisors. The current structure of separate FES squads requires experienced and competent Detective IIIs and Bureau lieutenants. In addition, the Department should require that a sergeant leading any specialized unit be a graduate of "Sergeant School," with additional leadership training preferred.

7.9. The Department must provide additional supervisory training.

Training for first-line supervisors needs to be improved significantly. The training is spotty and fails to emphasize the development of leadership or management skills, or the development of judgment. The Department must do more to provide leadership training for its supervisors and be more open to utilizing outsiders, including experienced retired officers who maintain an avid interest in the department's well-being, to monitor its operations, offer advice and teach non-tactical courses. Consideration should be given to requesting that POST (the Police Officers Standards and Training Commission) evaluate the Department's supervisory and Training and make appropriate recommendations.

7.10. Efforts should be made to reduce the administrative burdens on supervisors so that they can spend more time providing leadership and supervision in the field.

The Department should establish a process to reduce the Board of Rights burdens on the captains, and/or change the complaint investigation reporting requirements of certain types of complaints. To avoid having supervisors investigate allegations of serious misconduct against officers under their supervision, standards should be established to refer these complaints to IAG.

CHAPTER 8

SPECIALIZED UNITS

Introduction and Summary

The corruption scandal that has inflicted heavy damage upon the City of Los Angeles grew out of the activities of Rampart CRASH, a specialized unit that focused on the suppression of criminal activity by gangs in the Rampart area. CRASH was one of a number of specialized units in the Los Angeles Police Department that target suspects who, by virtue of the nature of their conduct or the perceived dangers they pose, require specially trained personnel to suppress the targeted criminal activity and to detect and arrest offenders.

Specialized units, however, pose special risks for corruption. They have traditionally operated independently from the ordinary chain of command, target offenders who are perceived as “bad or dangerous,” often engage in dangerous operations, and may work together as a small very coherent group for many years, resulting in the development of strong loyalties. Because of these factors, specialized units risk the development of subcultures, with their own values separate and apart from those of the Department, that will resist oversight and supervision by the Department. Further, specialized units present special risks that are inherent in their missions, including the use of excessive force, other civil rights violations (such as selective enforcement), and corruption (such as theft and bribery).

The use of specialized units can be justified by the need for a police department to have a dedicated group with special expertise, skills, and training to bear on a particular problem. For example, there is a need for a specially trained Special Weapons And Tactics (SWAT) team for particularly high-risk situations that cannot be handled by patrol officers. To avoid another Rampart, however, it is imperative that these units have clearly defined missions, receive specialized training, be closely supervised, and be subject to monitoring and regular audits to prevent the development of subcultures that will resist the Department’s policies and procedures.

Whether the LAPD should have specialized units in general or any particular specialized units are matters that should be left to the judgment of experienced police staff and commanding officers with appropriate oversight by civilian Commissioners. (Specialized units must, however have well-defined missions that includes a proper regard for the rights of the public.) Their

to limit Discretion

operations and oversight must minimize the risk of corruption to ensure that these units are likely to remain corruption free once the Rampart spotlight fades.

Methodology

The Operations Working Group reviewed five specialized units in the Los Angeles Police Department: The Special Enforcement Units (SEU, including former CRASH units), the Special Investigations Section (SIS), the Narcotics Division, the Metropolitan Division (Metro), and Vice.

The investigation consisted of analyzing SEU operations in one Area per Bureau, attending roll calls, observing field operations, and reviewing sergeants' training and detective supervisor curricula. It included reviews of Department operational orders, the selection packages for SIS and Metro, the Narcotics Division Integrity Assurance Plan and Narcotics Division Orders, and pending personnel complaints for the previous two years. Members of the Panel also reviewed the Board of Inquiry Report, the Christopher Commission Report, Blue Petitions I and II, materials provided by members of the gay community and neighborhood representatives, LAPD 3.18 Complaint forms from 1995 to June 2000, and lewd conduct arrest reports for 1997 - June 2000 of the Northeast Area Vice Unit.

In conducting this part of its work, members of the Panel interviewed SEU sergeants and field officers, active and retired deputy chiefs, Area and Operations Support Division (OSD) captains, retired Bureau CRASH coordinators, current and former SIS members, current and former DSD commanding officers, Narcotics and Metro Division supervisors and commanders, retired LAPD officers, current and former LAPD Vice officers, members of LAPD's Gay and Lesbian Liaison Office, members of LAPD's lewd conduct working group, representatives and leaders of the gay community, members of the Los Angeles City Attorney's office, members of the civil rights and criminal defense bars; neighborhood activists, and non-LAPD law enforcement personnel.

Findings

- 1. The Special Enforcement Units Gang Details (SEU) have a more focused mission and additional controls than the now-disbanded CRASH units.**

SEU, which consolidates all Area CRASH, Special Projects, Career Criminal and other special uniformed details, is the successor to the now-disbanded CRASH units, and targets gang

related criminal activity. The principal issue for SEU is whether unit members truthfully support arrests, detentions and encounters with probable cause, reasonable suspicion and consent.

SEU identifies gang members, develops intelligence about gangs, monitors gang activities, maintains a high profile in gang neighborhoods to discourage and suppress gang-related crimes, assists detectives with solving gang-related crimes, executes search warrants in some areas, and responds to citizen complaints about gang activities.

Critics allege that the SEU members harass young adults with the specific goal of removing gang members and their associates from the street regardless of whether they are actually committing crimes at the time they are stopped, investigated or arrested. These critics believe that SEU should abandon its proactive tactics, such as aggressive intelligence gathering and crime suppression, and instead focus on catching offenders during and after they commit crimes.

Gang members commit serious crimes on an organized basis, and severely threaten the safety of our City's residents. Notwithstanding the Rampart scandal, the residents of Rampart and other neighborhoods plagued by gang activity demand aggressive enforcement efforts to combat crimes committed by gangs. So long as gangs commit crimes on a widespread basis, SEU's mission can be justified. Nevertheless, the tension between SEU's mission and the rights of the people it targets can result in police practices which, if not closely monitored, will fall on the wrong side of the line – just as the practices did at Rampart.

The Department's response to Rampart has resulted in tightened controls that have reduced SEU's tactical activities, imposed additional supervisory and audit safeguards, and redoubled efforts to project professionalism while confronting the serious problems caused by gangs. [Unlike CRASH, SEU officers may not conduct narcotics and plain clothes investigations without prior Area and bureau approval or deal with informants except under very limited and closely supervised circumstances. They are required to present arrestees to watch commanders who then evaluate the circumstances of the arrest and the suspect's physical condition.]

In the past, selection to a "gang unit" was traditionally the first "elite" assignment for aggressive, young officers interested in going "head to head with the bad guys." [Selection to CRASH was frequently "by invitation" and viewed as a stepping stone to other elite units such as Metro.] As a byproduct of Rampart, the CRASH units were disbanded, the gang unit was renamed SEU and selection started all over again. Applicants must have three years of

experience, two on a patrol assignment. Numerous captains indicated that selection to SEU is currently being closely supervised by Area and Operation Support Division (OSD) captains, who evaluate the applicant's communication skills and discipline history, paying particular attention to allegations of discourtesy, multiple traffic accidents and use of force. The Bureau command then receives the applications for approval that is not automatic. Tenure at SEU is limited to 39 four-week Deployment Periods.

SEU has refocused attention on gang units due, in part, to the reduced authority it has to engage in narcotics, informant and plain clothes activities. Because SEU members are spending more time within public view than their predecessors, they are easier to supervise when sufficient field supervisors are available and actively involved in leading their units.

All Area and Bureau commands presently audit arrest and booking reports arising from SEU's activities. In addition, each Bureau has additional audit and training responsibilities that have not yet become fully operational.

2. Special Enforcement Units remain at risk because supervisory resources are stretched thin and ongoing supervisory training is inadequate.

A large part of SEU's mission is to gather intelligence. SEU officers often stop and encounter gang members, gang associates and suspected gang members without a supervisor present. Many such suspects are probationers and parolees who can be jailed for lying about their status or merely "associating" with gang members. Pursuant to court-imposed conditions, they also must consent to searches of their residences. Therefore, a one-on-one conversation with a young, unsupervised SEU officer can result in a probationer or parolee being arrested, having his or her residence searched, and/or having information about him or her entered into a gang database even though no crime has been committed. In addition, SEU officers may photograph and maintain files on individuals whom they determine, according to Department-wide criteria, are gang members. Thus, there is an enormous potential for abuse of power in these situations. Accordingly, it is critical that officers receive adequate supervision to ensure they are following the law.

The captains, sergeants, and officers we observed and interviewed were overwhelmingly thoughtful, vigilant and committed to ensuring that SEU functions ethically and lawfully. Nevertheless, SEU units remain at risk unless the captains and sergeants have sufficient time to

observe and supervise and the Department provides more focused and frequent training, particularly leadership training for supervisors.

The Operations Support Division (OSD) Captain is responsible for the operations of SEU, other specialized units and Area detectives. The Area Captain is in charge of patrol and does not typically have day-to-day contact with the unit. Depending on its size, the unit is supervised by one or more Sergeant Is. Deputy chiefs, captains and Sergeant Is uniformly believe, however, the SEU units should be supervised by more experienced Sergeant IIs.

Many units presently are understaffed and a number of them have one sergeant supervising nine or more officers in the field. SEU units work afternoon and evening shifts. They often work Saturdays. Unless a captain works split shifts and weekends, the unit often operates while the Area and OSD captains are off-duty.

OSD captains attend all search warrant executions. This is clearly desirable from the standpoint of integrity and training. Nevertheless, the vast majority of searches are conducted without a warrant. SEU officers and field supervisors routinely search the residences of probationers and parolees without a captain present. According to several captains and sergeants, these warrantless searches are not always witnessed by first line supervisors. Therefore, there is risk that some searches may be conducted with forced entries or questionable consent when the probationer/parolee is not at home.

Specialized training for SEU supervisors and officers is virtually non-existent. Each SEU officer attends a one-day SEU "Gang" School. The Department also offers a 3-day Gang Awareness Update program. This is inadequate. As a practical matter, all training is limited to lessons learned on the job. There is little or no leadership training for sergeants other than the supervision provided at the Area station by their OSD captains. The extent and value of this training varies with the interest and skill of the captain. A number of these sergeants have never attended the Department's one month sergeant's school.

3. Special Investigations Section (SIS) has a well-defined mission.

The Department formed SIS in 1965 to identify serial offenders, establish probable cause to arrest them through surveillance and conduct the arrest as soon as tactically practical. SIS members are highly trained in surveillance, the use of weapons and tactics which include surprise and the threat of immediate lethal force to persuade armed suspects to surrender immediately. Suspects, usually groups of armed, repeat offenders against whom probable cause

does not yet exist, are identified by detectives from around the city. If there is strong suspicion that the subjects are responsible for the crimes under investigation, the commanding officer of Detective Support Division (C/O, DSD) approves the referral. SIS will generally not accept cases involving subjects with outstanding warrants. Once the case is accepted, senior detectives assemble a “package” and surveillance commences. Because unit members may not know in advance when a crime will be committed, SIS often arrests suspects after observing them enter a building to commit crimes. This means that bystanders inside are often at risk that the criminals may engage in violence while SIS members observe from the outside.

SIS, whose tactics target violent offenders with lethal force and risk to bystanders, has not been directly implicated in the Rampart scandal. Nevertheless, SIS is the subject of publicized lawsuits, some of which portray its members as assassins with badges. Allegations of deliberate wrongdoing by SIS in high profile shootings inevitably have a significant impact on the Department’s overall credibility and may require the City to pay large verdicts and settlements. For SIS the primary issue is not whether they confront and arrest the right people, but whether when lethal force is used, are unit members both justified in using lethal force in the particular circumstances and truthful when they explain it?

According to an SIS Detective III, there have been 53 shooting incidents resulting in 23 suspects killed and an additional 19 wounded since SIS was formed 35 years ago. Critics have asserted that SIS should be disbanded because its tactic of surprising and confronting violent offenders with overwhelming force sometimes results in unnecessary deaths and because, they allege, unit members intentionally create circumstances that predictably lead to the shootings.

The justification for SIS is that Los Angeles covers a large area and it is difficult for Area detectives to coordinate and execute the sophisticated surveillance that SIS specializes in. The suspects whom SIS confront have committed multiple crimes, are armed and extremely violent. There is no guarantee that suspects and bystanders will not be shot and killed if some other armed unit, such as SWAT, replaces SIS and confronts offenders after they have committed their crimes, made their getaways and dispersed.

Ultimately, whether the LAPD should have an SIS is beyond the purview of this report. It is a matter for the Police Commission and the Department to decide in assessing how to deliver police services to the residents of Los Angeles. Our review focused on the controls that minimize the risks attendant to SIS operations.

4. SIS members are closely supervised, well-trained, and critically evaluated.

SIS is a small unit with less than 25 members who are closely supervised. The unit is managed by the C/O, DSD, a position which historically has had short tenure²⁰⁵ and is rarely filled by a captain with as much tactical and weapons experience as the detectives in the unit. A lieutenant Officer in Charge (OIC) and four Detective IIIs, three of whom are field supervisors, provide close day-to-day supervision. The current OIC has been with the unit for three years. By contrast, the four Detective IIIs each have more than 15 years with the unit and most of the remaining members, all of whom are Detective IIs, have been with SIS as long or longer than the OIC. Due to their experience, the units' Detective IIIs develop tactical plans and also make tactical decisions in most emergency situations. The current OIC has a strong supervisory presence. The weakness in the supervision results from the high turnover in the C/O, DSD, position, the lack of regular contact with bureau staff officers, and the time it takes for new OICs to establish credibility with the unit's highly trained and experienced detective supervisors, which increase the risk of an insular subculture at SIS.

SIS currently has an impressive selection protocol. Application packages are complete, criteria are well defined, personnel histories are carefully considered and the evaluation process appears thorough and detailed. Based upon the evaluators' comments, judgment and maturity are key factors in the selection process.²⁰⁶ The OIC and Detective IIIs suggest that the evaluation process emphasizes judgment and maturity as opposed to aggressiveness and weapons proficiency. While it is hard to predict how someone will perform in the highly charged situations which SIS members ultimately find themselves, the OIC and Detective IIIs insist that tactical proficiency can be taught, while good judgment and calmness under pressure is much harder to teach. The OIC states that in order to achieve optimal tactical capability, the unit needs to recruit qualified female members.

By contrast with the present professional system of selecting new members, interviews with current and retired members of the unit with long tenures indicate that SIS recruitment

²⁰⁵ The C/O, DSD, is a Captain II. Upgrading the position to Captain III may improve the likelihood that the C/O would remain a DSD for a longer period, subject to the Chief's discretion.

²⁰⁶ The Panel audited packages for the past three years.

during earlier eras was “by invitation” from the unit’s supervisors and that the maturity of today’s younger members appears better than in years past.

SIS has made significant efforts to maintain high standards. A number of recently arrived members have been asked to leave in recent years, principally for exhibiting a lack of candor. Other tactically proficient SIS members were told to leave the unit in recent years under circumstances where sweeping their misconduct under the rug might have reduced the risk of outside criticism.

SIS conducts field training eight hours per month and trains outside the Department two weeks per year. Weapons and surveillance training are extensive. However, SIS needs to conduct more “dynamic situation” training to further minimize the risk that deadly force becomes a conditioned response when confronted suspects are not actually observed drawing weapons.

The Chief of Police and a former C/O, DSD, lobbied very hard to equip the unit well; it presently has all the tactical equipment and support that it needs. Unit members are encouraged to take time off and are referred to or encouraged to seek counseling from Department psychologists if the OIC believes that they are under undue stress. Unit members claim that they are not bashful about confronting a unit member whose personal problems may impact his job performance due to the members’ reliance upon each other during dangerous assignments. The C/O, DSD, and Detective IIIs are not, however, trained by Department psychologists in ways to identify stress among unit members.

All the present and former SIS members we interviewed indicated that they considered SIS to be the best assignment of their careers. Most believe that mandatory rotation outside the unit will result in a significant void in the unit’s overall level of experience which could adversely impact the unit. Bonds among unit members appear to be very strong.

All shootings are investigated by an RHD/OIS team after unit members are separated. It appears that unit members have been candid during Departmental reviews, even when candor has made the unit vulnerable to criticism.²⁰⁷ One retired C/O, DSD, informed us that several years

²⁰⁷ There has been one shooting incident resulting in two suspects’ being killed during the current OIC’s tenure. He was at the scene and observed it. The unit’s members and former C/O, DSD, who presented this matter at the Department’s recent hearing into this incident, believed that the tactics used and behavior of the officers involved were proper in all respects.

ago, one of the unit's supervisors approached him immediately after a shooting and took responsibility for tactical lapses which increased the risk of civil liability to members of the unit and discipline to the reporting supervisor. By candidly coming forward at the beginning of an investigation, this senior supervisor, who still serves in the unit, suggests a culture within SIS that is both ethical and honest.

More often than not, lawsuits are filed when shootings occur. Members of the unit report that in response to lawsuits in recent years, the unit has reviewed its procedures and intensified its training.²⁰⁸ SIS conducts its own internal reviews of shootings to evaluate the tactics employed and the reasons for shootings. There is every indication that SIS seriously assesses each of the shootings.

5. The Field Enforcement Section (FES) of the Narcotics Division has a well-defined mission.

The Narcotics Division is divided into two major groups, the Field Enforcement Section (FES) and the Major Violators Group, along with support sections (e.g., Audit Detail) that report directly to the Commanding Officer (C/O) of the Narcotics Division, who is a captain III.

FES on its face bears similarity to CRASH. Narcotics has historically been a field area subject to corruption and many specific acts of misconduct at Rampart CRASH involved narcotics. Indeed, Perez was on loan to Rampart FES at one time. Thus, the selection, training, supervision, integrity procedures and audits at FES are critical to ensuring that FES is kept free from corruption.²⁰⁹

The mission of FES is to halt conspicuous street sales of narcotics. Activities include undercover "buy-busts," arrests based on surveillance, and arrests based on seizures of narcotics through utilization of search warrants. Area Commanding Officers, however, often want to use

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Nevertheless, based upon the recommendation of the Department's staff, the Police Commission recently administratively disapproved the conduct of three unit members after the hearing. After reviewing the evidence, the Chief of Police has asked the Commission to reverse its findings in this matter.

²⁰⁸ Despite the notoriety of the unit's operations, according to the City Attorney's Office, Los Angeles has paid relatively little in judgments and settlements resulting from the 23 deaths and 19 additional shooting injuries that have been sustained during the unit's 35-year existence.

²⁰⁹ Because of the similarities between CRASH and FES, the focus of our investigation was FES and not the Major Violators section.

FES for other tasks that are identified by FASTRAC and the squads themselves sometimes want to pursue long-term investigations that are not directly related to halting street sales. For example, one Area Commanding Officer wanted FES to assist in a crackdown on the theft of registration tags from parked vehicles. The command of the Narcotics Division strongly believes in not allowing either a dilution of FES into non-narcotics activity or its pursuit of investigations that traditionally are handled by Major Violators.

It is difficult if not impossible for patrol units to conduct the surveillance, obtain the search warrants, or arrange undercover buy-busts. FES allows patrol units to focus on other important problems. One FES supervisor specifically noted that he feels he has done a good job if drug arrests by patrol units in his area are down, but patrol's other arrests are up. The Bureau lieutenants all believed that FES indirectly assists the Areas by bringing a special expertise to a visible problem that otherwise would have to be addressed by SEU or patrol units.

Each FES squad handles this mission in different ways, based on workload. An Area with fewer street sales has become more proactive, working with its community on prevention programs. FES squads in Areas in which conspicuous street sales are very common concentrate on responding to the most persistent complaints.

FES addresses an important and visible problem. The community has a high degree of input into FES priorities because it is usually FES that responds to a complaint of narcotics activity. These are called "3.19" complaints, based on the number of the form on which they are recorded. Addressing the problem of street sales in response to community complaints is consistent with community policing.

In those Areas in which street sales are prevalent, the Detective III squad leaders must necessarily determine what problems should receive priority. Narcotics Division command staff indicated that these decisions were made in consultation with the Area captains, and interviews with Detective III squad leaders confirmed this interaction at the Area level. Detective III squad leaders have a strong incentive to cooperate with Area captains who determine the availability of officers to loan to FES. As it is, usually only one or two loanee positions are actually filled.

6. FES supervisors are stretched thin and the section faces a potential shortage of qualified supervisors in the near future.

FES consists of a squad at each Area, which includes officers who are part of the Narcotics Division and up to six officers on "loan" from the Area, which gives more resources to

the FES while disseminating narcotics expertise among the department generally. Supervision is provided by the Narcotics Division instead of by the Area. In particular, supervision and oversight is provided by the Detective III squad leaders and their Detectives I or IIs, the bureau lieutenants, the Commanding Officer, FES (C/O, FES) and the Commanding Officer, Narcotics Division. Although the Detective III is supposed to supervise several Detective Is and IIs, in reality there might be only one such detective to supervise the entire Section. The squads in each bureau are supervised by a FES lieutenant, who in turn reports to the C/O, FES (a Captain II).

FES squads are both officially outside the Area chain-of-command and are to some degree physically separated. In some areas (including Rampart), FES is on site at the station house but in a separate trailer. Because separation of Rampart CRASH was a contributing factor to the lack of supervision and the development of a subculture, this separation is a matter of some concern.

There is interaction between the Area and the FES squad. For example, the watch commander has to give booking approval of all arrests, including FES arrests. As mentioned above, the Area captain helps shape FES priorities. Nevertheless, the interaction between the Area and the FES squad is not a substitute for the formal supervision that is supposed to come from the Narcotics Division.

There was a strong consensus that supervision from the Narcotics Division was important to keep a future FES squad from recreating a Rampart scandal. The current bureau lieutenants all have extensive experience in narcotics enforcement, which is an important check against more experienced officers usurping supervisory roles. Due to administrative duties, however, bureau lieutenants cannot spend much time in the field – maybe a few hours a week. Therefore, the bulk of supervision falls to the Detective IIIs, who often have substantial administrative duties that limit their field supervision to only a few hours a day. The reality is, however, that there are approximately 40 vacancies in the Detective I and Detective II positions. The management of the Narcotics Division perceives a growing shortage of Detective Is and IIs, which reduces the pool for qualified Detective IIIs.

No one disputes that the mission of FES, the organizational structure, and the separation from the Area, mandate strong supervision from qualified Detective IIIs. Many Narcotics Division supervisors fear that in the near future there will be too few qualified applicants for the position of Detective III squad leader in FES. Given the administrative burdens on the Detective

IIIs and the potential shortages, the adequacy of supervision of FES is an area that the Department needs to address.

7. FES has rigorous selection procedures for its officers.

Each of the Narcotics Division or FES officers we interviewed was asked, “Why was Rampart a CRASH scandal and not an FES scandal?” Among the factors consistently cited was the background investigations that are conducted of officers assigned to the Narcotics Division.

Nearly all supervisors we interviewed stressed the importance of special screening for officers in the Narcotics Division. The Integrity Assurance Plan sets forth criteria for selection to FES and is now applied to officers on loan from the Areas.²¹⁰ The selection criteria include an interview, an extensive background investigation, and final approval from the C/O of the Narcotics Division. Bars to selection include excessive personnel complaints, indebtedness, substance abuse, or improper past association with known narcotic suspects and users.

The background investigation includes a polygraph examination. The polygraph is viewed as important, although some supervisors regard it as an impediment to recruitment for the Narcotics Division because certain officers distrust the results. One supervisor specifically commented that random drug testing might achieve the same benefits. The questions on the polygraph examination are very basic, and focus on narcotics attitudes, use, abuse, trafficking and associates.

There is no mandatory rotation in the Narcotics Division. Supervisors admitted there should be mandatory rotation after a specific time within the Narcotics Division. Problems such as the Detective III squad leader, a heroin addict who was discovered to be stealing narcotics, could be avoided or caught sooner. It would also prevent the establishment of an entire rogue squad.

Rotation does not appear to be a problem to implement for FES, because FES officers generally serve for approximately 2-1/2 years, although supervisors serve for longer periods. Implementation is, however, more problematic for Major Violators Section. The Narcotics Division has traditionally attracted certain officers as a career choice and thus officers in Major Violators Section typically serve for 10 years. Given the longer tenure in Major Violators

²¹⁰ Narcotics Division Order No. 3, 1998; Integrity Assurance Plan at 3-4.

Section, and the risks for corruption inherent in narcotics enforcement, a system of internal rotation is even more necessary than in FES.

8. Although there is specialized training for FES, there is still a need for additional training of officers and supervisors.

FES supervisory training involves a 16-hour "Supervisory Development Course" for Detectives II and III and Sergeants I and II. In addition, they attend a meeting of Narcotics Division supervisors each Deployment Period. FES officers attend in-service training classes presented by the Narcotics Division Training Detail; an annual two-day training conference; and a 16-hour Narcotics Division Orientation Course that is held every two months. The Narcotics Division training officer is one of the few sergeants in the division. In addition, there is a Complaints Detail that reviews the arrest reports, presents cases to the District Attorney's Office, and provides feedback to the Bureau lieutenants and squad leaders about why certain cases were rejected.

The District Attorney's Office nevertheless perceived the need for training in certain areas based upon the FES cases presented to that Office. As a result, the District Attorney's Central Trials Section organized a training program that covered the following topics: (1) evidence collection and preservation; (2) the disclosure of exculpatory evidence; and (3) the presentation of evidence at preliminary hearings and at trials. The Department chose the Narcotics Division to be the first officers to participate in this program.

Several officers, including a former Commanding Officer of FES, expressed doubt that the training for Detective IIIs was adequate. In particular, they questioned whether the training was sufficient to give them the tools to lead their squads. One supervisor said that the Detective IIIs were "99% troop oriented" and had not been trained to perceive themselves as managers.

9. The Narcotics Division has adopted extensive integrity assurance procedures; however, some procedural thresholds are not triggered by FES activities.

The Narcotics Division introduced a number of revisions to its policies in the wake of Rampart. This started in July 30, 1998, with an order applying the same screening procedures to officers on "loan" to FES squads from the Areas. The Narcotics Division review in the wake of

Rampart has included a new Integrity Assurance Plan in February 1999, and updates to the Narcotics Division Informants Handbook in 2000.²¹¹

The Integrity Assurance Plan addresses issues that are important in narcotics enforcement: (1) informants; (2) sensitive information; (3) currency seizures; (4) Narcotics Division funds; (5) narcotics seizures; (6) search warrants; (7) interagency relations; and (8) additional integrity assurance measures contained in other orders. One concern is that not all of the FES squad leaders and officers are aware of the specifics of the Integrity Assurance Plan. The plan is distributed to officers, but it is not used as a daily resource for either supervisors or the officers.²¹²

The Integrity Assurance Plan contains a specific series of requirements in regard to the seizure of currency²¹³ and narcotics.²¹⁴ For seizures that appear to be over \$10,000, a special unit is called to bag the money in the presence of the suspect. One supervisor who believes that these procedures are working also thought that, if possible, money always should be counted in the presence of the suspect to prevent complaints about missing money and eliminate whatever chance for corruption remained in the new procedures. Although the Integrity Assurance Plan has a set of requirements regarding narcotics seizures, it does not have procedures for small amounts involved in FES cases.

The Integrity Assurance Plan contains specific procedures for search warrants.²¹⁵ The thrust of these procedures is to increase supervisory oversight of the execution of searches. Thus, supervisory approval is required before a search warrant affidavit is presented to a magistrate. One supervisor opined that, if procedures for obtaining or execution of search

²¹¹ These procedures are consistent with BOI Recommendation No. 59, which calls for each Division to develop an Integrity Assurance Plan.

²¹² The Narcotics Division Integrity Assurance Plan is a consolidated reiteration of established Department policies and procedures, all of which carefully delineate instructions for performing specialized unit duties in compliance with all laws and regulations.

²¹³ Integrity Assurance Plan, at 17-23. Additional procedures are in Narcotics Division Order No. 20, Management and Control of Seized Assets – Revised (Nov. 15, 1999).

²¹⁴ Integrity Assurance Plan, at 26-28.

²¹⁵ *Id.*, pp. 29-34. The Narcotics Division also has a handbook: Narcotics Division Search Warrant Service Guidelines (revised July 1999).

warrants became any more elaborate, officers might stop getting warrants and would attempt to rely on consent or exigent circumstances instead.

The Integrity Assurance Plan reiterates procedures for informants,²¹⁶ which were later incorporated into a Department-wide order concerning use of informants.²¹⁷ An important feature of the new procedures is that a repeat informant, whether a "citizen" informant or a "criminal" informant, has to come into the station house, be photographed, and have an informant file prepared that records all Narcotics Division contact with that informant. Narcotics Division management takes these procedures seriously, as evidenced by its willingness to discipline for infractions. It is not clear, however, if FES squads are aware of the new procedures.

It appears that one aspect of these procedures may be too onerous. If a citizen calls once or makes an anonymous tip, then he or she is not defined as an "informant" but rather as a "source of information." The citizen can request to remain anonymous or have his or her identity confidentially recorded, perhaps on a log. But if he or she calls more than once, then the source of information may be viewed as a "citizen informant" who is supposed to be treated exactly like a "criminal" informant.

The informant procedures, however, recognize that a source of information may make repeated calls (a neighborhood block captain, for example), so it is not entirely clear when a repeat "source of information" should be considered a "citizen informant." Common sense suggests that citizens would balk at coming to the station or being photographed or giving permission to create an informant file.²¹⁸ One supervisor admitted to worrying that, to avoid this requirement, officers would pretend that a tip was anonymous or from some other source. Another supervisor admitted that the requirement encourages officers not to request the identity

²¹⁶ Integrity Assurance Plan, pp. 9-14.

²¹⁷ Operational Order No. 1, Use of Informants by Department Personnel. (Jan. 14, 2000).

²¹⁸ The new "citizen informant" file requirements also, to some extent, conflict with a goal of community policing. If the Department is to increase contact with community leaders, develop volunteers, and get to know the neighbors in order to increase input regarding community problems, a rule that requires establishing a file on every regular source of information may decrease the flow of critical information.

of callers, lest they become "citizen informants." A more reasonable middle ground to ensure responsible tracking of the varying sources of information from the community should be found.

The consequences of the new citizen informant procedures is an example of an issue raised by officers interviewed by the Panel that, at some point, the Department relies too much on rules and not enough on personal leadership, supervision, and judgment. If rules become so elaborate and arcane that they are neither understood, followed, nor enforced, then the rules do not reinforce integrity. Putting aside this issue of "citizen informants," supervisors did not feel the Narcotics Division procedures had reached that point. The general view was that the integrity assurance procedures were onerous, but necessary.

10. Metropolitan Division (Metro) is an elite unit responsible for multiple specialized assignments.

Metro's mission is to address special needs that cannot be met on a divisional basis, by guaranteeing a rapid deployment of personnel and equipment in urgent situations. Metro generally does an excellent job addressing its unique responsibilities within the Department.

Metro was originally conceived as an elite group of highly qualified officers who would form a mobile, crime-fighting unit to suppress criminal activity throughout the City. Although Metro's crime suppression duties remain an important part of its responsibilities, its mission has expanded significantly. It provides mobile reserves to deal with unusual occurrences, such as protests, political conventions, riots, natural disasters, and situations requiring additional resources and an immediate response; personnel for special crime problems beyond the capabilities of a particular Bureau, such as robbery stakeouts; serving high-risk warrants; Special Weapons and Tactics (SWAT) team support (such as the North Hollywood bank robbery); and crisis negotiation teams.

Generally, Metro has adequate resources to carry out its mission, although those resources could be improved and enhanced. Several officers commented that Metro's crime suppression capabilities are inhibited by their inability to work overtime shifts (especially in the overnight morning watch).

11. Metro has a rigorous selection process and excellent training and supervision.

Metro is headed by a Captain III. There are seven field platoons (Units A, B, C, D, E, G and K-9) and one support (administrative) platoon. A Lieutenant II supervises each platoon. There are four platoons assigned to crime suppression details in each of the four geographic

Bureaus of the City (Units A, B, C & G). D Platoon is the SWAT team, which responds to emergency situations involving barricaded suspects, high risk warrants or other dangerous situations requiring special equipment and training. The K-9 Platoon provides specially trained police dogs and police officer handlers for situations involving fleeing fugitives or felons in hiding. The mounted or equestrian unit (E Platoon) provides up to thirty mounted officers for use in crowd control situations and other crime fighting functions.

Each platoon is a self-contained unit. Reporting to the lieutenant in charge are four Sergeant IIs. Each sergeant supervises a squad of ten line officers. There are two Assistant Squad Leaders. Police Officers III+1s (P-III+10) generally assist the sergeant in the supervision of work assignments and overall operation of the squad. The ratio of supervisors to line officers is 1:8.

Our observations tend to confirm that Metro sergeants are frequently in the field, although due to the considerably greater experience level in Metro as opposed to divisional patrol units, most officers stated that intense supervision by the sergeant was not as important as supervision in divisional patrols. The supervision in Metro appears to be adequate, and is supplemented by peer accountability. The members of the various platoons work together closely, and any actions that are not in accordance with Metro standards are met with substantial peer disapproval.²¹⁹ Supervisors in Metro point out that what matters is the quality of supervision, not simply the supervisory ratio.

It appears that an inordinate amount of supervisory time in Metro is consumed with mounting paperwork. Metro sergeants, like their counterparts elsewhere in the Department complain about spending a great deal of time on administrative matters, and in investigating and processing personnel complaints that could be spent more productively in the field.

There is no formal recruitment of police officers to join Metro. From our review of Metro selection packages it is clear that Metro's reputation attracts consistently high quality officers who apply for admission to the unit. These officers typically have from four to ten years experience in the Department, usually in various patrol or special assignments, such as CRASH,

²¹⁹ Peer disapproval, while perhaps important to maintaining standards, runs the risk that complaints and problems will be handled informally and without adequate investigation and documentation. It cannot substitute for either supervision or the Department's disciplinary system.

and records of outstanding service. The application process involves a rigorous personal fitness qualification ("PFQ") test, enhanced weapons qualification requirements, excellent ratings, high recommendations from prior supervisors, essays, and extensive interviews. Additionally, sergeants conduct limited background investigations. Neither polygraph nor drug testing is conducted, nor does Metro require a financial disclosure from applicants. It was not felt by officers we interviewed that such additional measures were necessary. Screening for assignment to the division appears to be sufficient to assure a high quality officer.

Training is a priority in Metro. Officers receive 30 days of intense training given by the sergeants and P-III+1's in Metro when they enter the unit. Periodic training, given the breadth and diversity of Metro's mandated duties, is intense. Approximately two days per Deployment Period are dedicated to additional training, ranging from crowd control to stakeouts to firearms. Training is a duty. Officers in Metro get time for daily workouts while on the duty. This promotes both their fitness and morale. Officers believe that the commitment to training and physical fitness is one of the greatest assets of Metro.

Metro has an Integrity Assurance Plan that provides standards of ethical conduct. A great deal of the ethical training at Metro consists of roll call lectures and informal contacts with members of the various platoons and supervisors. One lieutenant spoke of his constant exhortations that "there is no one worth losing your job, going to jail for or embarrassing your unit over." Officers who were interviewed by members of the Panel expressed a concern for ethical conduct.

12. Metro lacks gender diversity and has generated concerns expressed by minority officers.

Morale in Metro is generally quite high (significant in a department with low morale). As a result, few officers leave Metro, except to retire or upon promotion. The turnover rate is thus correspondingly low. There is no time limit on how long an officer may serve in Metro. Many officers serve in Metro for most of their careers. This is partly a function of Metro's highly motivated personnel and its enhanced morale. Officers like working there, and few want to leave.

Rotation requirements serve to alleviate corruption risks in units where the officers face an ever-present threat of outside corrupting influences – which is the case in units which involve long-term investigations in high risk areas, such as narcotics or vice. Metro, however, is almost

entirely a reactive (as opposed to proactive) instrumentality. There are no long-term investigations, and indeed only a limited amount of community contact. There is a concern that the costs associated with rotation requirements would be considerable, principally the loss of highly skilled and trained personnel (especially true in the SWAT platoon). This would militate against rotation requirements. But Metro is a large division with its own culture. Even in light of the constraints of home vehicle assignments, the existence and promulgation of this Metro culture argues in favor of some form of mandatory rotation, at least among the platoons assigned to the four Bureaus.

Metro platoons appear to be racially diverse, but there are only ten women in Metro out of a total force of around 340. Several factors were offered to explain the discrepancy. First, some suggested that the Division's constantly shifting work hour requirements (work shifts may be shifted arbitrarily and at the last minute to respond to crises) caused more personal difficulty with female officers with families than with men. Second, the PFQ may eliminate more women than men, especially the fitness requirements that require considerable upper body strength. Third, Metro's "macho" image may appeal more to men than women. These assumptions appear to be based on stereotypes, which may be undermining Metro's aggressive outreach to female officers to join the division. The Department should investigate this issue to determine the changes required to attract and retain qualified women in Metro.

In the K-9 and Mounted Units, the Panel noted internal complaints have been filed by Metro officers alleging that fellow officers made racially or sexually offensive remarks and retaliated or threatened retaliation against officers for bringing complaints or disclosing misconduct. This is also a cause for concern. The diversity of the work force in Metro and the willingness of officers to come forward and report misconduct are checks against the risk of an insular specialized unit that is resistant to Department policies and procedures.

The Department's policy of assigning sergeants to investigate serious complaints against divisional personnel is also open to question. Complaints have been made in several units within Metro alleging that internal investigations conducted by Metro supervisors were not conducted in a thorough, fair and objective manner. Although we did not undertake an examination of the complaint system per se in connection with our review of specialized units, the same deficiencies observed elsewhere in the Department are true, if not more so, in units which are made up of closely knit groups of officers who train and work together. There is a perception, if not the

reality, that cohesive teams that foster excellent morale and promote survival, render objectivity when it comes to investigating and processing external complaints difficult, if not impossible. An audit of these complaints should be performed to determine, as in one case already reviewed, that Metro supervisors are able to distance themselves sufficiently from their teams to conduct fair and objective investigations.

13. Organized Crime and Vice Division has the supervision and controls sufficient to mitigate the risk of corruption among its Vice Officers.

The LAPD has two components devoted to vice operations. Organized Crime and Vice Division (OCVD) handles larger, and often high-profile cases, such as bookmaking, prostitution rings, gambling, and organized crime activity. Area Vice units assigned to each of the 18 geographic Areas are responsible for responding to citizen complaints and investigating vice problems such as street prostitution and lewd conduct that occur within their geographic boundaries. Presently, the policies for vice operations are included in the Department Manual, Vice Manual, Informant Manual, Department Orders, Divisional Orders, and the Organized Crime and Vice Division (OCVD) Integrity Assurance Plan (IAP), which was issued in 1999.

One senior officer stated that there are too many policies and manuals, many of which are poorly written and are too lengthy. He stated the LAPD leadership is “overreacting [to Rampart] and we are being buried by rules and procedures.” As a result, he believes that sometimes the policies are not followed. Given the potential for corruption in vice operations, however, the Department must have rigorous policies and procedures in place for the vice units. Reasonable people can disagree over whether fewer rules and procedures would enhance or detract from the goal of preventing corruption and other potential problems in vice operations. The key issue is that regulations and policies—whether they are increased or decreased—must be clearly communicated to vice officers, with appropriate training and follow-up audits.

With respect to vice operations, the Board of Inquiry Report concluded that “every vice unit we inspected was virtually error free,” and that LAPD had “a system of checks and balances” for vice units that is “virtually ‘bullet proof.’” The report also noted that problems in vice units “are generally detected very early and dealt with effectively,” and that “[s]ystemic problems. . . are virtually unheard of in our vice operations.”²²⁰

²²⁰ BOI Report, at 347-48.

Before 1997, Organized Crime and Administrative Vice were separate divisions in LAPD. In August 1997, they were merged to form the Organized Crime and Vice Division (OCVD). The Vice section of OCVD has four sections: a Special Enforcement Section (pornography, community problems, field evaluators), a Gaming Section (bookmaking, gambling, animal fighting), a Prostitution Section, and a Night Watch Section. Currently, there are 22 personnel in the Special Enforcement Section, 12 personnel in the Gaming Section, and 10 personnel in the Prostitution Section and 11 personnel in the Night Watch Section.²²¹

OCVD is headed by a Captain III who reports to the Commanding Officer, Criminal Intelligence Group, who holds the rank of Commander. The commander, in turn, reports to the head of the Operations-Headquarters Bureau.

By all indications, OCVD is professionally and well run, and there are no indications of corruption or misconduct in the Division. Several internal “checks and balances” have been developed over time in OCVD that contribute to this success. OCVD cases often lead to high-profile prosecutions, which involve lengthy and extensive investigations. Officers assigned to OCVD are aware of the importance of preserving the integrity of their investigations so that their cases hold up in court.

An additional, informal check is the separation of the vice and organized crime functions. The existence of an Organized Crime Section independent of vice investigation provides an element of insurance against organized crime corrupting OCVD officers.²²²

A significant factor contributing to the success of OCVD’s vice operations is that it has traditionally had the latitude to bring in high-caliber officers. An applicant to any vice assignment undergoes a rigorous screening process to receive a “vice clearance,” which includes

²²¹ The Organized Crime Division of OCVD, which includes approximately 40 personnel, is primarily an intelligence gathering operation that is fairly separate from OCVD vice enforcement. Given the focus on vice operations in the BOI Report and Blue Petitions, our investigation focused on the Administrative Vice Section rather than the Organized Crime Section of OCVD.

²²² One senior vice officer we interviewed opined, however, that this historical check is less reliable since the 1997 merging of Administrative Vice and Organized Crime. Before the merger, each division would generate its own report about a location or organization. Any inconsistencies would then be a red flag for a potential corruption or integrity problem.

a background investigation and polygraph examination.²²³ Vice officers also receive extensive training. All vice officers must attend a 40-hour Vice School at the Academy.

Once in OCVD, officers tend to stay. One officer we interviewed more than 11 years experience in vice operations and stated there were at least five people at OCVD with more experience. There was, however, a concern expressed that a significant number of very experienced personnel will soon leave the OCVD for reasons related to morale generally, and because many officers are or will soon become eligible to retire.

Operations-Headquarters Bureau conducts periodic audits of OCVD. In addition, there is an “audit detail” for OCVD Vice Operations. The audit detail is comprised of two officers who perform scheduled and unscheduled audits of this Division. These auditors review adherence to enforcement protocols, use of Secret Service funds, and arrest reports and other documents at OCVD. The auditors also recommend changes in vice operations and note any discrepancies between protocols and practices.

14. Area Vice Units have supervision and independent evaluations to guard against the risk of corruption.

Each of the 18 geographic Areas of LAPD has its own separate Area vice unit. These units respond to citizen complaints and handle vice problems (such as street prostitution and lewd conduct) in the Area. In performing their mission, officers in vice units are entrusted with significant freedom and responsibility. They often work undercover and have access to discretionary funds. One high-level officer stated that vice units are particularly at risk for corrupting influences due to the nature of their work because they deal with “money, gambling, prostitution, and alcohol.”

There are approximately 100 vice officers assigned to the 18 Area vice units. On average, each vice unit contains two sergeants and six officers. Smaller units, such as in Hollenbeck Area, have two sergeants and four officers. Larger units, such as in Hollywood, have one lieutenant, three sergeants, ten investigators, and twelve uniformed officers in the Prostitution Enforcement Detail (PED).

²²³ The use of the polygraph was noted as significant by two senior officers. Alarming, both indicated that many officers who apply for vice positions are turned down because they fail the polygraph.

The direct line of command for each Area vice unit begins with a Sergeant II, who reports to the Operations Support Division Captain I in the Area. The Areas report to the four bureaus, each of which has a Lieutenant II Vice Coordinator who oversees the Area vice units. The Lieutenant II is also responsible for reviewing and auditing arrest reports, ring-in sheets (to record officers calling in regularly), log books, and monetary expenditures.²²⁴ Above the four bureaus is the Department Vice Coordinator, who sets vice policy for the entire LAPD and reports to the Commanding Officer, Operations-Headquarters Bureau.²²⁵ The multiple layers of supervision reflect the recognition that, as one former Area captain indicated, the mission of the Area vice units requires strong supervision. A commander indicated, however, that the Sergeant IIs who are the first line supervisors often do not have any prior vice experience, which may weaken their effectiveness.

Separate from each Area vice unit's chain of command are four Vice Field Evaluators assigned to the OCVD. Each Vice Field Evaluator is a Detective III who has functional oversight over the Area vice units assigned to a particular geographic Bureau. They provide an "indirect" but important avenue for review of the Area Vice units. Vice Field Evaluators are "not beholden to anyone" in the Area Vice units' chain of command, but rather report to the head of the Special Enforcement Section. The Vice Field Evaluator serves as an expert, consultant, and evaluator for the Area vice units. The LAPD officers we interviewed viewed Vice Field Evaluators as an important internal check on Area vice operations.

The screening for Area vice positions is considered more extensive than for many other specialized units. All applicants go through an interview process and their names are sent to all of their current and former commanding officers (within the last five years) for comments. In addition, a vice clearance background check is conducted. Once selected, Area vice officers attend the 40-hour Vice School and have their own training days. Officers from OCVD will also hold training sessions for Area Vice units. [The average tenure of an Area Vice Officer is approximately 18 to 24 months, but is limited to two years except in special situations and with the written approval of the bureau Commanding Officer.]

²²⁴ Although the Lieutenant II has a lower rank than the Captain I, the Lieutenant II often will have the support of the bureau's commander and a Deputy Chief.

²²⁵ The Department Vice Coordinator also serves as the Commanding Officer of the Criminal Intelligence Group.

Audits for each Area vice unit are conducted by the Area, the Lieutenant II Vice Coordinator in the Bureau, and the Vice Field Evaluator assigned to monitor that particular Area vice unit. Despite the multiple audits, however, none seemed to have noted the problems we have identified with master complaints and boilerplate language in arrest reports.

15. There is evidence that the Area Vice Units are driven by arrest statistics.

LAPD officers expressed divergent views regarding the importance of arrest statistics at the Area vice level. Two officers, including a current commander, stated there is significant pressure to make the numbers look good. The commander stated that there is a “big emphasis” on numbers in Area vice units. Each Area vice unit “wants to make more arrests than the previous crew” and “tries to break all records set by previous crews,” which “can be problematic” due to the mission and nature of vice operations.

An emphasis on statistics can lead to problematic arrests that are based upon questionable probable cause or raise entrapment issues. This ultimately reflects on the credibility of the officers, the Area vice units, and the Department as a whole. As noted below, there is some evidence of the use of boilerplate language in Area vice unit arrest reports that undermines confidence in the integrity of the arrests and further erodes the credibility of the officers.

16. The justification for undercover enforcement of lewd conduct laws is not always appropriately documented.

The Panel restricted its review to lewd conduct enforcement in Northeast Area in response to community complaints of selective enforcement against gay men. Although the review (documentation of the cause of enforcement activity, recording individual community complaints and the use of “master complaints,” and deficiencies in reports) raised in this discussion focus on one Area, the lessons learned can be applied to all lewd conduct activities throughout the City, regardless of the sexual orientation of the parties involved.

In our review of lewd conduct enforcement by the Northeast Area Vice Unit, we noted disturbing practices that raise concerns regarding the integrity of the investigations and arrests. There appeared to be both undercover enforcement against gay men for lewd conduct that was not based upon actual complaints regarding such conduct, as well as frequent use of boilerplate language in arrest reports.

Despite the comparably low percentage of gay men in the population, those arrested for lewd conduct are overwhelmingly gay men.²²⁶ Additionally, the arrests occur as a result of undercover operations in which the defendant may reasonably believe his advances are welcome and there is no one else present. Representatives of the gay community – including gay officers within the LAPD – uniformly believe that LAPD enforcement of § 647(a) of the California Penal Code,²²⁷ the lewd conduct law, disproportionately and unjustifiably impacts gay men.

There are three allegations regarding selective enforcement of § 647(a) in the Blue Petitions submitted to the Commission by the gay community: first, that the LAPD rarely penalizes heterosexual conduct that may be in violation of § 647(a), yet seeks out for arrest and prosecution gay men who engage in comparable conduct; second, that LAPD uses plain clothes officers to expressly solicit lewd conduct acts by homosexuals, but does not do the same against heterosexuals; third, the gay community questions whether citizen complaints – the justification for LAPD’s enforcement policies – actually exist, and if so, what they are and whether they are valid.

Several witnesses stated that they believe that heterosexual lewd conduct would not result in enforcement, whereas such conduct by homosexuals would result in enforcement. Declarations of two private investigators included with the Blue Petition state that at Sandpiper Lane near Los Angeles Airport, they observed enforcement against homosexuals for lewd conduct but not against heterosexuals for the same or similar conduct.

LAPD officers generally deny that such discrimination takes place and there are no records that can be reviewed to prove or disprove the allegations because no records are kept if an officer decides to not enforce a violation of the lewd conduct laws. At least one LAPD officer, however, admitted that he would not arrest a heterosexual couple engaged in lewd conduct in a car or the bushes, but would simply tell them to stop it. There is no way to

²²⁶ Chief Parks has publicly stated, “lewd conduct is almost 100 percent going to be gay community related in the sense of male-on-male.” Interview in *Frontiers Magazine*, December 26, 1997, entitled “New LAPD?”

²²⁷ Section 647(a) of the Penal Code states that any person who solicits anyone to engage in or engages in lewd or dissolute conduct in any public place is guilty of disorderly conduct. A requirement is that the conduct or solicitation was performed “by a person who knows or should have known of the presence of persons who may be offended by the conduct.”

determine how many other officers merely look the other way when they observe heterosexual couples engaged in lewd conduct.²²⁸

Every LAPD officer we interviewed with past or current vice experience indicated that enforcement takes place only in response to a complaint or conspicuous behavior.²²⁹ Yet, our review of the Northeast Area Vice Unit²³⁰ found that, in Griffith Park, LAPD targeted lewd conduct investigations against gay men despite a lack of documented public complaints or a description of “conspicuous” behavior that could have been observed by members of the public.

Existing policies provide that if a vice complaint comes in, it must be memorialized on a “3.18” form and investigated. A complaint should be resolved within 30 days and an extension must be approved by a supervisor. Under prevailing practices, the complaint serves as the basis for the “source of activity” section on an arrest report if an arrest follows.

In addition to investigations based upon a specific complaint, Area Vice units open and maintain, what are known as “master” or “open” complaints. Once originated, these complaints may remain open until the Department concludes that the problem has been “abated” or otherwise resolved. Further, a master complaint may remain open so long as “chronic” vice conditions exist at the location.

Master complaints must have eight investigations during each 30-day period to continue in open status. Monthly follow-up reports indicate the number and types of arrests, a description of the enforcement activity, and an explanation of why the problem continues to be chronic or unresolved. The follow-up report is prepared by the investigating officer and approved by the vice unit supervising sergeant and the captain, who must authorize further extension of the open complaint. Follow-up reports are also audited by OCVD.

²²⁸ Given the scope of our review, we have not been able to confirm whether such selective enforcement has occurred. We recommend that the Police Commission’s Inspector General conduct further investigation into the allegations of the gay community set forth in the Blue Petition.

²²⁹ The conduct at issue here does not involve “commercial” activities.

²³⁰ There are several locations in Los Angeles where gay men apparently congregate and where the gay community asserts the unfair enforcement of the lewd conduct laws occur. The primary locations include Griffith and Elysian Parks (in Northeast Area), Echo Park (in Rampart Area), Sandpiper Lane (in Pacific Area) and in Hollywood. Our review focused on the Northeast Area Vice Unit.

We reviewed vice complaint files of Northeast Area Vice for the years 1995 through June 2000, paying particular attention to the master or “chronic” complaints. We found that these master complaints result in undercover investigations in locations perceived as chronic when few, if any, documented complaints have been recorded. Moreover, we noticed improprieties in complaint reports, including the misrepresentation of arrest statistics, which are then relied upon to keep a master complaint open.

Each 3.18 is a “fill-in-the-blanks” face sheet with a portion for a “summary of investigation.” We have found that the same generic phrase appears repeatedly in the “Summary of Investigation” section of each master 3.18 as the basis to initiate²³¹ or continue master complaints due to a “chronic” problem based upon the number of arrests for “lewd conduct and lewd conduct related activity.”

The “lewd conduct related activity” in the master 3.18 and follow-up reports, which nearly always follows a reference to lewd conduct arrests, is not described. Other than lewd conduct arrests themselves, the other arrests noted in the follow-up reports – i.e., being in the park after dark, illegal sales of T-shirts – cannot, without more, necessarily be equated with “lewd conduct related activity.”

Noticeably missing from this summary is any reference to, or documentation of, lewd conduct complaints from the public to warrant opening a chronic complaint and conducting an investigation. Similarly, the follow-up investigations and reports usually do not provide information regarding complaints from the community, although in some instances, the reporting investigator wrote that an unidentified person complained of lewd conduct in a specific area. Nor do the 3.18 complaints and follow-up reports describe any “conspicuous” behavior other than that which resulted in the arrest of someone in an undercover operation.

The current master complaint relating to Griffith Park – which encompasses several sites, such as certain trail and public restrooms within the park – originated in the early 1980s, and has remained “open” for nearly two decades. The master 3.18s we reviewed for 1995 to June 2000

²³¹ The follow-up reports to the Griffith Park 3.18 indicate that at the end of each year, the complaint is “closed.” At the same time it indicates that the complaint will be “reopened” January 1. The “reopening” of the complaint is completely perfunctory, and not based on information new or in addition to that set forth in the report “closing” the complaint. Thus, the life of the complaint continues automatically.

each contain the same boilerplate “Summary of Investigation.” Each suffers from a lack of documentation of public complaints.

Follow-up reports also suffer from this problem. For example, the follow-up report dated June 14, 1997, states that the investigator received numerous letters of complaint, yet, there is no documentation or description of these complaints. It states only that complaints were made by “day users.” Further, it indicates that the majority of the vice unit enforcement activity during this period of time reflected arrests for municipal code violations for being in the park after dark.²³²

Additionally, we have found that statistical information cited in each “opening” 3.18 to justify continuing to treat Griffith Park as a “chronic” complaint is misleading. For example, in the August 21, 1997 follow-up report to the Master 3.18 for 1997, the investigator states that “[l]ewd conduct continues to be a problem in Griffith Park.” Yet, in that same report, which summarizes the enforcement for the preceding thirty days, of the 46 total arrests, 42 were Municipal Code violations for being in the park after hours, two were citations for illegal ticket sales and two were for malicious mischief.²³³ None were for lewd conduct.

In summary, the master 3.18 complaints, investigations and follow-up reports related to vice enforcement at Griffith Park for the years 1995 through June 2000 reflect that complaints from the public are not documented and arrest statistics exaggerate the prevalence of lewd conduct in Griffith Park. These flaws are significant enough that the 3.18 procedure is an unreliable indicator of the presence and extent of any lewd conduct problems at Griffith Park.²³⁴

²³² After-dark activities in the park may include use of alcohol, which is a vice-related activity. However, the lack of specificity in these documents does not differentiate between the variety of suspicious activities that occur after dark that support keeping the master complaint open.

²³³ There appears to be an assumption by the Department that being in the part after hours necessarily relates to lewd conduct, as opposed to other crimes such as narcotics trafficking or robberies.

²³⁴ Many of the same problems noted with respect to enforcement at Griffith Park were also found with respect to Elysian Park and Eagle Rock Plaza. In contrast is the enforcement in the Hyperion Corridor, a small community comprised of several blocks along Hyperion Street in the Silverlake area. Complaints from the Hyperion Corridor community relating to conduct in a local bar and a sexual encounter club are very well documented in the master and follow-up reports and are maintained for a specific period of time to address a defined problem. Community representatives speak highly of the officers of Northeast vice and consider them to

17. There are a number of deficiencies in Area vice unit arrest reports.

The BOI report noted that “vice units throughout the Department use pre-typed or ‘boilerplate’ type RFC’s.”²³⁵ Given that this practice has been widely accepted throughout the Department and endorsed by the Office of the City Attorney for nearly a decade, it would be difficult to discern a pattern of abuse should one be present.” The report then recommended that “strong consideration should be given to abolishing the practice of ‘boilerplate’ reports to alleviate the perception of ‘uniform’ arrests.”²³⁶

It is evident, as stated in the BOI, that the use of boilerplate language in lewd conduct arrest reports is widespread and has been ongoing for years. The LAPD arrest report is comprised of a face page used to gather and record demographic information, and a continuation sheet intended to document the specific circumstances surrounding the arrest of the suspect(s). The circumstances of the arrest are always compartmentalized into source of activity, observations, arrest and booking.

The source of activity portion of the arrest report establishes why the officer is investigating a specific area or location to justify the enforcement undertaken as a precursor to initiating the subject's arrest. Presumably, the contents of this section would not be uniform if the source of activity was based on citizen complaints. In a majority of the lewd conduct arrest reports, however, the complainant is anonymous and the enforcement is based on generic assertions of the existence of a “lewd conduct problem.” In many of the arrest reports we reviewed, this portion consisted of nearly identical and boilerplate statements.

The observation section of the report is the critical section describing the probable cause for arresting the subject for lewd conduct. In this section, we discovered numerous examples of duplication and boilerplate language, which reflect a practice of cutting and pasting from prior reports. 1997 and 1998 reports show this to be blatant, even to the point where the same font,

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be important allies in the community's drive to rid the neighborhood of the sexual encounter clubs.

²³⁵ BOI Report, at 48. An “RFC” is a Release from Custody form, given to the defendant after booking with directions when to report to court. A REF is a fill in the blanks form.

²³⁶ To assess the BOI’s conclusion, we reviewed lewd conduct arrest reports provided by LAPD for the Northeast Area Vice unit for the years 1997 through June 2000.

indentations, and misspellings recur. The reports from 1999 and 2000 still show significant use of boilerplate language, but fewer blatant errors or obvious mistakes were made. A sampling of some of the more egregious examples we found include the following:

- On January 29, February 8, March 8, and April 11, 1997, the same investigator wrote four arrest reports in which the key phrases documenting probable cause for arrests in Griffith Park were identical.
- 1998 arrest reports reveal the use of specific boilerplate determined by the specific area in which subjects were arrested in Griffith Park. A sampling of eight arrest reports – all written by the same officer – had a nearly identical scenario.
- Numerous examples of copying were also found. For example, in two reports of arrests made the same day, the reporting investigator forgot to change the time; consequently, the reports show both subjects arrested at the same time. In another report, the investigator copied a prior report but forgot to change the partner officer's name. In a series of reports, the same misspelled words are repeated.
- Another officer wrote two computer generated lewd conduct arrest reports, on different dates that are essentially duplicates of each other. Even the same misspelled phrase, “there dogs,” is repeated in both reports.²³⁷

The records we reviewed reflect that virtually all of the Northeast Area Section § 647(a) arrests are obtained by vice officers acting in an undercover capacity, with no one present except the officer(s) and the defendant. In those few instances where reports noted that civilians were present when the lewd conduct occurred, the witnesses were not identified or interviewed. Thus, there is no witness, other than the defendant, to corroborate the account of the arrest presented in the arrest report. Since the records uniformly reflect that undercover Vice Officers do not work alone, the lack of witness identification cannot be due to a lack of officers on the scene. While the problem may be a result of natural witness dispersal or of protocols mandated for officer safety, securing statements from witnesses should be a high priority by officers assigned to a particular operation.

²³⁷ All of the above examples are from arrests made in Griffith Park.

The gay community asserts that undercover enforcement is used only against gay men and undercover officers “entrap” or “bait” gay men into making a proposition or engaging in sexual behavior by exhibiting interest in the defendant and indicating that the defendant's advances are welcome. In light of the sensitivity of these issues, the use of master 3.18 complaints that do not adequately set forth the justification for undercover enforcement, misleading arrest statistics, and boilerplate language in arrest reports undermine the credibility of the Department’s enforcement of the lewd conduct laws.

Recommendations

8.1 Each specialized division and unit should have a mandatory rotation policy tailored to its structure, mission, and expertise requirements.

With every specialized unit, the argument could be made that officers should be rotated out of the unit after a certain period of time. There is always a risk that officers who work together in a special unit over an extended period of time will develop their own culture. This may include heightened loyalties to their unit or their fellow officers, and their own ways of carrying out their responsibilities that do not comply with Department policies and procedures. This must be balanced against the accumulation of expertise in the specialized units and the desire of officers to pursue their careers in a certain area of specialization. It is hardly surprising that officers who have worked together for many years will stress the benefits of experience in performing specialized missions. The need for experience, however, bears on the length of time that officers should spend in a specialized unit before rotating out of the unit, not whether there should be a mandatory rotation at some point.

Each specialized entity should have a mandatory rotation policy that is tailored to the unit’s special needs and structure. Further, the rotation policy can be phased in to minimize the disruption to its operations or be implemented in such a way as to take advantage of impending departures. In some units, there can be an internal rotation that would further minimize the disruption and avoid the loss of special expertise among its members. Thus, for example, FES officers and supervisors could be rotated to another Bureau within a three to five year period. Similarly, while it may not be feasible to rotate Metro officers in K-9 or SWAT units, there should be a mandatory internal rotation among the four platoons assigned to crime suppression in the Bureaus, which can be achieved without the loss of skilled personnel within Metro. In

addition, an internal rotation policy for Major Violations Section in Narcotics Division should be established.

The potential for corruption in vice operations is particularly acute, as evidenced by the extensive screening and training of vice officers to perform ethically in light of the sensitive nature and mission of their work. Given the impending departure of a number of senior officers, there is an opportunity to implement a rotation policy in the OCVD Vice Operations vice section, starting with the new incoming officers. Accordingly, we recommend that the LAPD implement a mandatory rotation policy that takes into consideration the need for experience in the section. At a minimum, LAPD should require rotation of officers among the vice sections in OCVD.

History has shown that narcotics enforcement carries a significant risk of corruption. Indeed, a member of Major Violators Section was involved in the significant “Operation Big Spender” investigation a decade ago, in which members of the Sheriff’s Department were found to have skimmed money seized during narcotics investigations, along with other crimes. Accordingly, there needs to be a mandatory rotation of Major Violators Section.

The Department should also include SIS in such a policy. It is a small unit and a “mistake” can result in the loss of a human life, significant harm to the department’s credibility, and potentially significant civil liability. When a unit’s supervisors and members are more experienced and tactically proficient than the senior officers who lead and command them, there is great potential for the members to become isolated and resistant to supervision, with power concentrated in the hands of the junior ranking members with tenure. This is particularly true in a unit like SIS, where there have been 15 Commanding Officers at DSD in the past ten years.

8.2 Special Investigations Section and Metropolitan Division should increase the number of women officers.

8.3 Special Enforcement Unit officers must receive focused training consistent with its mission.

Given the potential for a “war on gangs” mentality to develop at SEU, the training must focus on a due regard for the rights of people who are targeted by SEU investigations, as well as the gathering of intelligence and the investigation of gangs.

8.4 Special Investigations Section supervisors should be trained by Department psychologists in ways to identify stress among members.

8.5 Special Investigations Section should take additional steps to reduce the risk of shootings and further minimize the risk to crime victims and bystanders.

“Dynamic situational” training should be further developed and reinforced to minimize the risk that lethal force becomes a conditioned response when confronted suspects are not actually observed drawing weapons. Department psychologists and/or personnel from the department’s mental evaluation unit should be consulted by SIS in selected cases involving potentially unstable suspects. Unit members often observe crimes being committed inside buildings while bystanders are alone with the suspects. Consultations with psychologists might enhance the knowledge that the OIC and supervisors have about suspects under surveillance and assist in helping Section leaders make the best tactical choices.

8.6 The Narcotics Division should provide additional training in the area of evidence collection, preservation, and presentation.

8.7 The Narcotics Division should review its procedures for seizures, search warrants, and informants.

The Narcotics Division should review its procedures for small seizures, in light of the recent situation with a squad leader with drug-related problems that precipitated criminal activity. Since false consent to searches were an issue in Rampart, Narcotics Division should carefully review its procedures to ensure that there is a proper balance that will provide enough supervisory review without discouraging the use of search warrants. The new informant procedures should more carefully define who a “citizen informant” is as opposed to a source of information. The requirements in regard to “citizen informants” cannot be so rigorous that in practice they would never be followed.

8.8 The Narcotics Division must make sure that all officers know and can implement the procedures in the Integrity Assurance Plan.

8.9 Vice Units must document the specific basis for enforcement operations.

An extensive and thorough review of enforcement practices, master complaints, and arrest reports needs to be accomplished by those who audit Area Vice units. The practice of using Master Complaints should be reconsidered, particularly regarding opening a Master 3.18 without citation to specific recorded community complaints. 3.18 Complaints should be opened based on public complaints that are documented by more specific detail in the Source of Activity

description and wherever possible supported by interviews. Follow-up reports should clearly state the enforcement pursued to resolve the problem, including interviews of affected parties.

8.10 The practice of using boilerplate language in arrest reports must stop immediately.

Arrest reports should honestly and correctly identify the circumstances leading up to the arrest, and all persons who witnessed the arrest. Arresting officers should always attempt to obtain statements from any witnesses, and should include these statements in the arrest report. Arrest reports are reviewed by the Captain of the Area and the Lieutenant II at the Bureau responsible for the Area to identify potential abuses. This auditing activity should be supported by the resources required to perform this analysis, and practice or procedures should be modified to avoid repetition of the problem(s) in the future.

APPENDIX A

Survey of Los Angeles Police Department Officers

Methodology

This survey was conducted under the auspices of the Independent Review Panel on Rampart, Ethics, Culture and Communication working group. The objective was to obtain information and thoughts from those that are on the front-line of the City's law enforcement.

The surveys were distributed to respondents by the LAPD starting July 26, 2000. The forms and instructions were included with the bi-weekly pay stubs. PricewaterhouseCoopers (PwC) received numerous reports that officers, particularly from specialized and other units that do not regularly pick-up their internal mail received the survey forms close to or after the close out date of August 16, 2000. In addition, many officers reported that the large deployment for the Democratic Convention impeded their ability to pick-up and respond prior to the 16th. Therefore we roughly estimate that as many as 1,000-1,500 officers may not have received the survey or have received the survey on or after the cut-off date of August 16. PwC also received at least 21 complaints that the forms were never delivered to entire units or individual officers. Completed surveys were returned directly to PricewaterhouseCoopers via stamped self-addressed envelope, or by facsimile. A total of 2167 officers from the LAPD responded to the survey.

In the survey, respondents were asked a series of opinion questions relating to culture, ethics, communications, and professionalism. Using a "Likert" type response on a scale of 1 to 4, respondents were asked to agree/disagree with a series of statements regarding ethical standards, training, management, etc. (1= strongly agree, 2=agree, 3=disagree, 4=strongly disagree.) Results were analyzed by gender, rank, education and years with the Department. It should be noted that the survey data, including over 500 pages of comments from officers serve as a rich source of data that deserves much more in-depth study than that allowed by this report.

Results

Average Ratings Score by Rank Classification

	Overall	LT (I,II)	SGT (I,II)	DET (I,II,III)	PO (III,III+1)	PO (I,II)
1 If well-trained non-LAPD personnel were tasked with investigating complaints against officers, the process would be fairer to officers.	2.71	2.75	2.65	2.74	2.59	2.76
2 If well-trained non-LAPD personnel were tasked with investigating complaints against officers, the process would be fairer to the general public.	2.67	2.80	2.67	2.73	2.57	2.68
3 If representatives from the Inspector General were involved in investigating complaints against officers, the process would be fairer to officers.	2.79	2.76	2.73	2.78	2.72	2.84
4 If representatives from the Inspector General were involved in investigating complaints against officers, the process would be fairer to the general public.	2.73	2.89	2.68	2.75	2.61	2.78
5 When Internal Affairs performs an internal investigation they work to make the process fair to officers.	3.14	2.25	2.94	2.96	3.27	3.26
6 When my division performs an internal investigation they work to make the process fair to officers.	2.44	1.67	2.11	2.14	2.49	2.67
7 Overall, sworn officers feel a sense of loyalty to the department.	2.72	2.33	2.50	2.45	2.79	2.88
8 The first priority for LAPD management is service to the community.	2.75	2.47	2.83	2.63	2.82	2.77
9 Standards for entry-level personnel should be raised.	1.39	1.34	1.31	1.31	1.32	1.48
10 The Department's efforts to fulfil Equal Opportunity standards for hiring and promoting women and minorities hurt the Department.	1.94	1.77	1.87	1.80	1.87	2.05
11 Changes in the hiring standards of the LAPD have resulted in an increased level of misconduct, whether criminal or administrative (policy & procedure), by its officers.	1.89	1.63	1.75	1.67	1.78	2.07
12 The change in minimum hiring standards for the Department has improved its operational capabilities.	3.43	3.55	3.56	3.54	3.45	3.33
13 The change in minimum hiring standards for the Department has improved morale.	3.61	3.67	3.68	3.68	3.63	3.56
14 I believe standards for becoming a Los Angeles Police Officer to be as high as they were twenty years ago.	3.31	3.51	3.42	3.41	3.37	3.21
15 Thinking of all the training sworn officers receive - at the Academy, through in-service and from outside agencies - an adequate amount of ethics training is provided.	2.04	2.37	2.25	2.10	2.00	1.96
16 It would be helpful for me to have continual ethics training after the academy.	2.70	2.14	2.39	2.60	2.81	2.81
17 The Department should provide additional training in cultural awareness (such as the cultures of immigrants in the various geographic areas covered by the Department).	2.65	2.52	2.52	2.53	2.73	2.70
18 Incidents of misconduct among fellow officers go unreported because of the fear of retaliation from the individual that is being reported or other department personnel.	2.99	2.75	2.95	2.98	3.01	3.01
19 An increase in supervision and other internal controls will improve ethical conduct.	2.83	2.03	2.34	2.53	2.89	3.10

		Overall	LT (I,II)	SGT (I,II)	DET (I,II,III)	PO (III,III+1)	PO (I,II)
20	I understand the purpose of community policing.	1.50	1.47	1.42	1.52	1.48	1.54
21	My colleagues understand the purpose of community policing.	1.79	1.86	1.82	1.79	1.84	1.74
22	Training officers selected to be Field Training Officers (FTO's) have been adequately and appropriately selected and trained to hold that position.	2.99	2.69	3.06	3.08	3.00	2.96
23	I fear retaliation from fellow officers if I were not to go along with fellow officers if they were engaged in criminal conduct.	3.64	3.62	3.66	3.66	3.69	3.60
24	An increase in training on ethics would assist in preventing the police misconduct alleged to have occurred at Rampart.	3.22	2.78	2.96	3.09	3.32	3.31
25	The Department administers discipline fairly and appropriately.	3.67	3.22	3.61	3.62	3.73	3.71
26	Fellow officers are proud to be police officers.	2.07	2.02	2.03	2.11	2.08	2.07
27	An increase in supervision and other internal controls will improve morale.	3.24	2.38	2.82	3.02	3.34	3.44
28	The transfer of responsibilities from sworn officers to civilians has positively affected the morale of sworn officers.	2.90	2.98	3.04	2.89	2.84	2.89
29	The reported lowered morale of officers has been more affected by the hiring of less qualified candidates.	2.34	2.30	2.22	2.17	2.31	2.44
30	Morale within the Department has been declining over the past few years.	1.33	1.42	1.33	1.30	1.31	1.34
31	Implementing the LAPD's community policing program has improved morale.	3.10	3.16	3.14	3.05	3.12	3.10
32	Recognition given to some specialized units within the Department hurts the morale of the personnel in line or non-specialized units.	2.73	2.62	2.49	2.96	2.61	2.77
33	The alleged misconduct at Rampart was an isolated incident.	1.63	1.89	1.63	1.69	1.61	1.61
34	A lack of controls and supervision was a significant factor in the alleged misconduct at Rampart.	2.16	1.54	1.78	1.70	2.24	2.43
35	I fear retaliation from fellow officers and/or management if I report administrative (policy and procedure) misconduct in which they may be involved.	2.93	3.13	2.91	2.94	2.95	2.92
36	I am proud of the current reputation of the Department.	3.33	3.23	3.25	3.29	3.41	3.34
37	I am proud of the past reputation of the Department.	1.45	1.30	1.39	1.44	1.40	1.51
38	I fear retaliation from fellow officers if I were not to go along with fellow officers if they were engaged in non-criminal misconduct.	3.49	3.54	3.51	3.57	3.51	3.45
39	Standards for entry-level personnel should be lowered.	3.88	3.85	3.89	3.90	3.90	3.86
40	There is a "Code of Silence" amongst sworn officers, that prohibits an officer from reporting criminal conduct committed by other officers of the Department.	3.52	3.25	3.49	3.54	3.55	3.53
41	An officer should not be required to report or testify against another officer.	3.40	3.82	3.72	3.67	3.46	3.16
42	Some officers do not report misconduct by other officers because they believe that management ignores such reports.	3.24	3.17	3.15	3.17	3.26	3.29
43	Incidents of misconduct among fellow officers go unreported because of the fear of retaliation from management.	3.08	3.07	3.06	2.99	3.11	3.09
44	I benefit, personally, when officers report the misconduct of other officers.	2.46	2.12	2.24	2.21	2.51	2.60

		Overall	LT (I,II)	SGT (I,II)	DET (I,II,III)	PO (III,III+1)	PO (I,II)
45	The reported lowered morale of officers has been more affected by the mismanagement of the Department.	1.33	1.63	1.32	1.39	1.27	1.31
46	The Department's efforts to fulfil Equal Opportunity standards for hiring and promoting women and minorities have had a positive impact on the Department.	3.00	2.99	3.04	3.01	3.04	2.97
47	The community benefits when officers report the misconduct of other officers.	1.77	1.43	1.49	1.52	1.77	1.95
48	If there were a mechanism in place for officers to anonymously report misconduct involving other officers, it would be utilized.	2.13	2.01	2.06	1.96	2.14	2.22
49	Management of the LAPD has a great deal of integrity and honesty.	3.38	2.85	3.35	3.35	3.52	3.38
50	A direct line of communication to the Department's Inspector General will increase the number of reports from sworn officers concerning misconduct by other officers.	2.63	2.55	2.56	2.50	2.58	2.73
51	Management should treat reports of misconduct (policy and procedure) with the same investigative process as reports of criminal misconduct.	2.83	2.58	2.82	2.68	2.81	2.90
52	Most sworn officers have a great deal of integrity and honesty.	1.20	1.32	1.19	1.24	1.20	1.19
53	Fellow officers are proud of the "uniform" and what it represents.	1.64	1.77	1.61	1.65	1.68	1.62
54	I fear retaliation from fellow officers and/or management if I report criminal conduct in which they may be involved.	3.27	3.38	3.28	3.36	3.23	3.24
55	The Department benefits when officers report misconduct of other officers.	1.89	1.37	1.62	1.62	1.86	2.11
56	Overall, the code of conduct, ethical standards, role of the ombudsman, etc. that are established by the Department as itemized in the handbook, are enforced and adhered to.	2.21	2.18	2.37	2.24	2.22	2.16
57	The transfer of responsibilities from sworn officers to civilians has positively affected the operational performance of sworn officers.	2.76	2.95	2.93	2.75	2.71	2.73
58	Fellow officers do not need to compromise their ethics in the pursuit of their day-to-day responsibilities.	1.39	1.10	1.26	1.28	1.34	1.51
59	Overall, sworn officers feel a sense of loyalty to the community.	1.95	1.95	1.84	1.72	1.91	2.09
60	A "Code of Silence" exists among sworn officers of the Department.	3.33	2.96	3.20	3.30	3.38	3.37
61	Management of the LAPD effectively and appropriately communicates with employees.	3.61	3.39	3.63	3.58	3.70	3.60
62	The police department is overly "military like" in its operation.	3.07	3.18	3.15	2.99	3.11	3.06
63	The department should be discipline oriented and "military like" in its operation.	2.23	2.03	2.13	2.26	2.26	2.24
64	Senior Management in my Department appreciates the service I perform.	3.15	2.65	3.08	2.98	3.25	3.22

APPENDIX B

Risk Management Chronology

RISK MANAGEMENT CHRONOLOGY: JULY 1991-MAY 2000

July 1991 Report of the Independent Commission (Christopher Commission Report) found that the fundamental responsibility for the problem of excessive force by LAPD officers lies with the LAPD management's failure to implement appropriate systems for preventing and controlling problem behavior by its officers.

July 1991-December 1995 No significant action toward adoption of systems recommended by Christopher Commission.

January 1996 LAPD creates Risk Management Unit within the Legal Affairs Division.

May 1996 Five years later: A report to the Los Angeles Police Commission on the Los Angeles Police Department's Implementation of Independent Commission Recommendations, by Special Counsel Merrick J. Bobb, et al.

January 16, 1997 Letter from the Los Angeles Police Commission President Raymond C. Fisher to the United States Department of Justice (DOJ) Civil Rights Division, requesting federal funding for the development of an automated early warning system.

July 1997 TEAMS system implemented.

September 1997 DOJ awards grant to LAPD for implementation of an expanded TEAMS system (TEAMS II) as proposed in the Fisher Letter.

November 1997 *Status Update: Management of LAPD High-Risk Officers*, by Katherine Mader, Inspector General, Los Angeles Police Commission.

January-February 1998 Administrative Orders Nos. 1 and 3 issued by the Chief of Police implementing the "Focus Accountability Strategy Teamwork Response and Coordination" (FASTRAC) system.

January 29, 1998 Letter from Special Counsel Merrick J. Bobb to Laura Chick, Chair of the Public Safety Committee of the Los Angeles City Council, outlining some of the risk management efforts being undertaken by the Los Angeles Sheriff's Department.

June 1998 *LAPD Report on Risk Management*, prepared by LAPD Legal Affairs Section, Risk Management Unit (LAPD 1998 Report), describes LAPD's risk management approach as having three areas of focus: training, tracking, and accountability.

July 28, 1998 *Analysis of June 1998 LAPD Report on Risk Management*, prepared by Katherine Mader, Inspector General, concludes that the LAPD June 1998 Report "paints an overly optimistic picture of its current risk management reality." Further, "the TEAMS system... is not yet an effective method for field supervisors to identify and monitor potential high-risk officers."

November 1998 LAPD receives six proposals in response to request for consultant services to develop an Automated Personnel and Risk Management Data System (also referred to as TEAMS II).

March 23, 1999 LAPD selected Sierra Systems as its vendor on the TEAMS II development contract, and forwarded the RFP with the selected vendor to the Mayor and the City Council for approval.

January 31, 2000 Chief of Police issued Special Order No. 6 establishing the Risk Management Division, to replace the Legal Affairs Section.

March 2000 The City Council rejected the bid from Sierra Systems.

March 1, 2000 LAPD Board of Inquiry Public Report into the Rampart Area Corruption Incident is released.

May 8, 2000 TEAMS II Working Group Selects Leikar Strategic Solutions Corp. (LSS) as the vendor for the TEAMS II development contract.

May 8, 2000 Letter from the DOJ Civil Rights Division to the City Attorney, stating that LAPD is engaging in a "pattern or practice" of actions in violation of the Fourth and Fourteenth Amendments to the Constitution.

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